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## E-Justice in Russia

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### Аннотация

Electronic justice in Russia is part of the general trend of digitalization of public authorities. The present work reveals the main elements of electronic justice in Russia at the current stage. The paper examines trends and patterns in the development of electronic justice focusing on the needs of civil society and the business community. It also explores positive and controversial aspects of the introduction of digital technology in court. The study provides an overview of certain aspects of digital justice, requiring the state to ensure equal technological accessibility and elimination of digital inequality among participants of the judicial process. The research formulates the limits of the use of information technology in court, considering the technological accessibility to the electronic court. The present study forms a holistic view of the state of Russian electronic justice.

**Ключевые слова:** electronic justice, electronic document management, electronic evidence, online courts, remote hearings, court bot, court cloud, artificial intelligence, cyborg judge

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## INTRODUCTION

2 The development of electronic justice, as a priority in the activities of Russian courts, was noted at the IX All-Russian Congress of Judges (2016). Within the framework of this concept at the initiative of the President of the Russian Federation and the Supreme Court of the Russian Federation a number of laws were adopted. As a result of the reform of procedural legislation, the efficiency of justice has increased.

3 The Concept of Judicial Information Policy for 2020-2030, approved by the Council of Judges of the Russian Federation on December 5 2019, laid the foundation for improving the ways in which citizens, organizations, public associations, state and municipal bodies, and media representatives can access information about the activities of the courts. The Concept of Informatization of the Supreme Court of the Russian Federation dated February 2, 2021, No. 9-P (Supreme Court of the Russian Federation 2021) defines directions for improving modern digital justice.

4 The issues of digitalization of Russian judicial proceedings have become the subject of numerous scientific and practical studies of legal scholars and practicing lawyers (Laptev and Solovyanenko 2017, 2019a). The constant development and variability of technological equipment of courts in Russia is noted in the periodical and specialized press, as well as in interviews with leading legal experts.

5 Digital justice has significantly facilitated the workload of the Russian courts. It made it possible to structure information on court cases, keep quick statistics and respond to issues arising in the work of the courts.

6 Powerful digital servers and archives (operational and backup) ensured reliable electronic storage of documents related to the activities of the Russian courts.

### 7 **1. GENERAL PROVISIONS ON DIGITAL JUSTICE: CONCEPT AND CONTENTS**

8 In Russia, the terms "electronic justice" and "digital justice" are often used as identical concepts. In practice, the terms "mobile justice", "remote justice", "cyberjustice", "online justice", and other definitions of traditional justice based on information technologies are also interchangeable.

9 Digital justice is a form of law enforcement activities of the judiciary to implement constitutional, civil, administrative and criminal proceedings using information and communication technologies and systems, including a single information space of courts, software for the automation of court proceedings (filing, processing and scanning of documents received by courts, formation of electronic cases and electronic archive of court cases, online sessions, artificial intelligence, and others), providing for the use of information and communication technologies.

10 Public speeches of the Chairman of the Supreme Court of the Russian Federation V. Lebedev testify to the accelerated pace of transition of domestic courts to the electronic system of justice in the context of technological and other present-day challenges (RAPSI 2015; Alexandrov 2020).

<sup>11</sup> Several legal scholars, in particular Romanenkova (2013), interpret e-justice (in the broad sense) as a set of various automated information systems - services that provide means for publishing judicial acts, conducting the "e-case" and the parties' access to the materials of the "e-case". Sharayev (2010) believes that e-justice can be seen as a way of administering justice based on the use of information technologies. Quite often the category of "e-justice" is disclosed through the enumeration and description of its separate elements (reflecting the openness of justice, electronic interaction between the participants of the process and the electronic case work in court) (Sharifullin et al. 2018). The above positions illustrate the basis of e-justice, for example, the digital technology.

<sup>12</sup> Russian digital justice includes essential elements which were formulated and enshrined in the Concept of the Federal Target Program "Development of the Judicial System of Russia in 2013 - 2020" dated September 20, 2012, No. 1735-r; the Federal Target Program "Development of the Russian Judicial System for 2013-2020" dated December 27, 2012, No. 1406, the Concept of Judicial Information Policy for 2020-2030 dated December 5, 2019, and other acts. The increased number of cases heard in courts, which cannot be administered in traditional ways without the use of information technology, became a significant incentive for the development of e-justice. Thus, in 2020, courts of arbitration at all levels heard 1.5 million cases, and courts of general jurisdiction of first instance heard 29.5 million civil and administrative cases, as well as 530,000 criminal cases (Supreme Court of the Russian Federation n.d.).

<sup>13</sup> The components of digital justice are:

- court automation system<sup>1</sup>;
- electronic document management, including electronic filing and processing of documents (statements of claim, complaints and other petitions) submitted to the court in electronic form;
- scanning of incoming documents;
- formation of electronic files and archives;
- automated analytical support of the work of the courts;
- personal accounts of those involved in the process;
- establishment of technical conditions for ensuring electronic interaction of the courts of general jurisdiction with the information systems of the Office of the Procurator-General of the Russian Federation, the Ministry of Internal Affairs, the Federal Bailiff Service, the Federal Penal Correction Service and others;
- courts and the Judicial Department of the Supreme Court of the Russian Federation will be equipped with software and key media for electronic document management with the use of an electronic signature.

The following elements are expected to emerge soon: - the creation of a cloud computing architecture to provide for the automation of court and general office workflow; - expanding the use of mobile devices as access to information resources, software systems and databases of arbitration courts using "cloud" technology for judges and court officials - mobile justice; - establishment of mobile judges' offices (special passenger minibuses) with the use of videoconferencing for mobile sessions in geographically remote areas of the country; - organization of incoming scanning of all documents received by arbitral tribunals and the formation of electronic cases (pilot

project "Electronic Case"); - creation of an electronic archive for subsequent transition to electronic enforcement of judicial acts; - integration of court information platforms with information systems of public authorities; - creation of specialised legal electronic libraries in the courts; - creation of a single digital space of electronic signature trust is the basis for the future development of e-justice, including the single information space of the judicial system; - recording of the course of proceedings by means of audio recordings and the inclusion in the case file of discs, flash cards and other evidences in digital form, in accordance with the principle of one electronic data carrier for each case separately, and their cloud storage; - granting participants in the proceedings the right to consult case files in a cloud-based repository; - development of electronic identification and other means to ensure the security and reliability of electronic court procedures.

<sup>14</sup> The current situation shows that there is no possibility of a full transition to digital justice in Russia with all its elements. For a long time, there will be a mixed system of justice, which includes elements of the traditional paper-based and electronic document flow. This is due to the digital divide.

<sup>15</sup> Arbitration courts considering economic disputes may soon completely switch to digital justice, as it is assumed that most participants in a dispute are professionals representing business interests, economic entities, government authorities and other parties, who usually possess minimal technical equipment for using electronic document management. Analysts estimate that Russia has a high level of informatization of economic justice, with indicators comparable with those of Singapore and China and exceeding those of Australia, Germany and Canada (Kashanin 2020).

<sup>16</sup> For courts of general jurisdiction which hear disputes, including those involving citizens (pensioners, minors, people who have lost legal capacity or live in places which are not easily accessible), there is a lack of material and technical capacity for full electronic interaction with the court.

<sup>17</sup> Digitalization of justice should take place in conditions of real possibility (accessibility) of information technologies for the participants of the process. A different approach violates the constitutional guarantee of judicial protection of rights and freedoms (Article 46 of the Russian Constitution).

## <sup>18</sup> **2. ELECTRONIC DOCUMENT IN COURT**

<sup>19</sup> The gradual transition from paper documents to digital documents in court proceedings has enhanced the ability of litigants and the judiciary to exchange digital information of legal significance. Key issues of electronic case management were clarified in the Resolution of the Plenum of the Supreme Court of the Russian Federation dated December 26, 2017 No. 57 "On certain issues of application of legislation governing the use of documents in electronic form in the activities of courts of general jurisdiction and arbitration courts".

<sup>20</sup> Two types of documents in electronic form are distinguished in the judicial electronic document management system in Russia: an electronic image of a document and an electronic document. The electronic image of a document (an electronic copy of a document produced on paper medium) is a copy of a document produced on paper medium converted into electronic form by means of scanning, certified in accordance

with the Procedure of document filing with a simple electronic signature or an enhanced qualified electronic signature. The electronic document is a document, created in electronic form without prior documentation on paper, signed with electronic signature in accordance with the legislation of the Russian Federation.

<sup>21</sup> Depending on the legal consequences of the appeals all documents coming to the court can be divided into two groups. One group is documents that are required to be signed with an enhanced qualified electronic signature (electronic documents) or are certified their electronic images with an enhanced qualified electronic signature: an application for provisional security for the protection of copyright and/or related rights; an application for provisional legal protection; an application for provisional measures of protection.

<sup>22</sup> The other group is documents that are not required to be signed with an enhanced qualified electronic signature (documents in electronic form signed with a simple electronic signature): an application; an administrative statement of claim; a complaint or a submission; documents attached thereto, and others. It should be considered that documents not requiring an enhanced electronic signature can be sent to court both in the form of an electronic image of the document and as electronic documents signed with the enhanced qualified signature.

<sup>23</sup> In practice, there are cases when electronic images of documents (produced on paper) that are simultaneously certified with an enhanced qualified electronic signature are sent to the court. Double authentication of a document (a simple and reinforced electronic signature) can be regarded as an additional measure to protect rights of the process participants and to ensure digital hygiene which is not superfluous in the context of cyber-security measures.

<sup>24</sup> If it is not legally required to sign an application to the court with an enhanced electronic signature, then a power of attorney or other document, confirming the authority of the person to sign the application to the court in the form of an electronic image of the document certified by a simple electronic signature of the person submitting the documents to the court, shall be attached when filing an application to the court in the form of an electronic image of the document. Depending on the type of court proceedings, courts of different levels apply appropriate document management systems.

### **3. ELECTRONIC WORKFLOW IN THE COURT**

<sup>25</sup> Electronic filing of documents is governed by the relevant instructions and regulations. To file documents it is necessary to register a personal account, depending on the competent court:

<sup>26</sup> - arbitration courts and the Supreme Court of the Russian Federation (within arbitration proceedings) - in the My Arbitrator system ( <https://my.arbitr.ru/#index> ); - courts of general jurisdiction and justices of the peace - in the section "Submission of procedural documents in electronic form" of the GAS "Justice" internet portal ( [www.sudrf.ru](http://www.sudrf.ru) ); - the Supreme Court of the Russian Federation - in the information system of the official website of the Supreme Court ( [>>>>](#) ); - the Constitutional Court

- in the "Appeal to the Constitutional Court of the Russian Federation" filing system ([>>>>](#) ).

<sup>27</sup> As a special case, documents in electronic form can also be submitted to the Constitutional Court of Russia to the general e-mail address - [ksrf@ksrf.ru](mailto:ksrf@ksrf.ru) with signing the application and its attachments with an enhanced qualified electronic signature, for example, in the form of an electronic document.

<sup>28</sup> The personal account shall be registered in the name of the individual who submits the documents to the court electronically. If electronic submission of the document is done by the representative of an organisation, the personal account shall be registered in the name of the respective representative.

<sup>29</sup> An electronic image (or the electronic copy) of a document should meet the following requirements: a paper document should be scanned at 1:1 scale in black and white or grey colour (with 200 - 300 dpi resolution); a PDF format is required (it is recommended that PDF text should be copyable); the size of an electronic image file should not exceed 30 Mb, and so on.

<sup>30</sup> Electronic documents should satisfy the following requirements: must be initially created in an electronic form without preliminary documenting on paper-based media; PDF text must be copyable; the files of documents attached to the appeals to the court shall be presented in the format, in which they are signed with electronic signature; the file size of an electronic document shall not exceed 30 Mb; each separate document shall be presented as a separate file. The file name must allow for identification of the document and the number of sheets in the document.

<sup>31</sup> Electronically filed documents shall be rejected by the court on the following grounds: the petition is not addressed to the court; the petition is identical to the previously filed petition; the documents are illegible, in particular: the pages of the document(s) are reversed; the document(s) do(es) not contain all pages; the presence of all pages is not identifiable (because of the absence of pagination); the file does not contain an electronic document or an electronic image of the document; incoherent text; missing file of the petition and/or files of the documents attached to it.

#### <sup>32</sup> **4. DIGITAL AUDIO AND VIDEO RECORDING OF COURT PROCEEDINGS. BROADCASTING THE SESSION**

<sup>33</sup> Electronic video and audio court transcripts are essential in the Russian digital justice system. Depending on the accessibility of these digital transcripts for litigants and third parties (non-disputants), a distinction is made between: digital audio and video protocols of public access (for example, sessions of the Plenums of the Supreme Court of the Russian Federation); open-access digital audio records of an individual involved in a case; digital video records for official use (court sessions of arbitration courts of first and appellate instances).

<sup>34</sup> Maintaining electronic audio and video records also secures the fundamental principles of court proceedings of publicity and openness.

<sup>35</sup> The Russian procedural law provides that individuals present at an open court session have a right to take notes during the court session and audiorecord the session. Filming and photographing, videotaping, and broadcasting arbitration court sessions on radio, television and on the Internet is allowed with the permission of the judge presiding over the hearing.

<sup>36</sup> Audio-recording of court hearings makes it possible to reflect on the participants' procedural actions and on the results of their examination by the court. The Arbitration Procedure Code of the Russian Federation does not provide for minutes to be kept during the preliminary hearing and the appeal proceedings. Nevertheless, all applications and motions of the individuals involved in the case and the results of their examination shall be contained in the case file and shall be reflected in the ruling or decision of the arbitral tribunal or in the record of the individual procedural action.

<sup>37</sup> It should be taken into account that the digital audio-recording of the court session shall be regarded as the primary and basic means of recording the proceedings in court, despite the fact that a written record shall also be prepared as an additional means of recording.

<sup>38</sup> Different courts use appropriate audio recording technology. Thus, in arbitration proceedings audio recording of each court session is carried out by connecting digital dictaphones and external microphones to the workplace; using audio-recording hardware and software, and others.

<sup>39</sup> Videorecording of court hearings in arbitration courts allows to record a court session via videoconferencing. Videoconferencing improves the quality of work of the judiciary, as well as consideration of complaints about the actions (including ethics) of judges, and the like. As a rule, a video recording of the court session is not made available to the parties to the arbitration proceedings. The parties are entitled to receive copies of the recording of the videoconference of the court session.

<sup>40</sup> Within the framework of administrative proceedings, both audio and videorecording of court hearings may be made by virtue of Article 205 (4) of Code of Administrative Judicial Procedure of the Russian Federation. Accordingly, since these media obtained by technical means by the court shall be attached to the record, the said information may be provided as a digital copy at the party's request.

<sup>41</sup> *Broadcasting of hearings.* The issues of publicity and openness of court proceedings are reflected in detail in the Federal Law "On providing access to information on the activities of courts in the Russian Federation" dated December 22, 2008, No. 262 by virtue of which citizens, including representatives of organisations, public associations, state and municipal bodies, have a right to attend open court proceedings and record the proceedings in the manner and form prescribed by Russian law (Article 12).

<sup>42</sup> For Russian courts at all levels, the Procedure for organising and broadcasting court hearings via radio, television and the Internet, approved by Order of the Judicial Department of the Supreme Court of the Russian Federation No. 182 of October 17, 2017, is applicable. The decision on the admissibility of court session broadcasting shall be reflected in the protocol of the court session. Broadcasting may be time-limited by

the court and shall take place at the court-appointed seats in the courtroom. Broadcasting a court session without authorisation shall be a breach of order in the court session.

<sup>43</sup> According to Point 17 of the Resolution of the RF Supreme Court Plenary Session of June 15, 2010 No. 16 “On Practice of Application by the Courts of the RF Law ‘On Mass Media’” the judge may not hinder the mass media from entering the court session and from covering a particular case, except for cases provided for by law (for instance, if the case is heard in a closed court session, if the media representatives have to leave the court room for violating the order in the court session and others).

## <sup>44</sup> **5. ELECTRONIC EVIDENCE**

<sup>45</sup> Electronic evidence is gradually gaining popularity in modern legal proceedings (Laptev 2017; Zhurkina 2020; Obidin 2020). Traditional evidence converted into a digital form (a postal letter converted into electronic communication, a bilateral written agreement and an electronic contract, photographs, and so on) possesses not only their negotiability and ease of presentation to the court, but also the collection and storage of said evidence including in the formation of court files and their archives.

<sup>46</sup> The list of possible types of electronic evidence in court is open. With the development of online justice, the legislator must work diligently to put all sorts of technological tools in the hands of the judge in the administration of justice to establish the objectivity and authenticity of evidence. For example, deepfake (Brandon 2018; Sozankova 2019), substitution of a domain name or an Internet portal, changing the content of a video clip, adjusting a web archive (a digital imprint of a website page) and other products of artificial intelligence may be a significant obstacle to the objective establishment of truth in a case by the court.

<sup>47</sup> The issue of admissibility of a range of electronic evidence and the expediency of introducing the concept of "electronic evidence" into the law is of considerable import in the legal literature (Zhurkina 2020). Issues of introducing information technology directly into criminal investigation, examination and adjudication procedures have also been investigated (Voronin 2019). It has also been proposed to consider electronic information as an independent type (source) of evidence, as it includes not only information on facts but also digital requisites (for example, date of file creation, changes of its content, format and author) (Obidin 2020).

### <sup>48</sup> **5.1. Electronic communications.**

<sup>49</sup> Civil and commercial interactions are enabled by the exchange of information, through which the parties express their will to enter, change or terminate a legal relationship. Digital technologies have provided business entities and the legal communities with modern methods and means of electronic communication - electronic messages. To a large extent, electronic correspondence and electronic negotiations make it possible to determine the true will and intentions of the parties before the conclusion of the contract. Types of electronic communications are an e-mail, SMS messages, fax messages (Public Switched Telephone Network), voice mail messages (Public Switched



Telephone Network), Instant messaging (Instant messaging), SMTP messages and others.

<sup>50</sup> Documents received by facsimile, electronic or other means of communication, including information and telecommunications network "Internet", as well as documents signed with an electronic signature in the manner prescribed by Russian law are admissible as written evidence.

<sup>51</sup>

## **5.2. Electronic documents and other documents in electronic form**

<sup>52</sup> According to Russian procedural law, documents signed with an electronic signature (an electronic document or a scan copy of a paper document) are recognised (admissible) as written evidence. As of 2019, the new wording of Article 160 of the Civil Code of the Russian Federation includes the recognition of a handwritten signature in transactions of a facsimile reproduction of a signature by mechanical or other copying means or of another analogue of a handwritten signature in cases and in the manner provided by law, other legal acts or agreement of the parties.

<sup>53</sup> By virtue of paragraph 2 of Art. 434 of the Civil Code of the Russian Federation, an agreement in writing may be concluded by a single document (including an electronic one), signed by the parties, or the exchange of letters, telegrams, electronic documents or other data. When a contract is concluded by means of an exchange of documents, for the purposes of recognising an offer as an offer, the offeror's signature is not required if the circumstances, in which the offer is made, allow reliable identification of the person who has sent it. Bilateral (multilateral) transactions may be carried out in the ways set out in paras. 2 and 3 Article 434 of the Civil Code of the Russian Federation, except for cases where an agreement has been concluded as a result of fraudulent actions.

<sup>54</sup>

## **5.3. Digital audio, video and photo recordings**

<sup>55</sup> Evidence on magnetic media demonstrating information on the facts - audio, video or photo images - has become an effective means of proof. This evidence is used in court along with traditional evidence such as witness statements, paper evidence, and the like. A clarification by the Supreme Court of the Russian Federation that for audio or video recordings to be considered as admissible evidence in cases on protection of infringed intellectual property rights the consent of an individual in respect of whom they are made is not required, but is necessary for participants in proceedings.

<sup>56</sup> Evidence of digital audio and video recordings and photographic images is gradually being enshrined in legislation as a separate type of evidence. Thus, in 2016, Article 26.7 of the Code of Administrative Offences of the Russian Federation was supplemented with a provision which includes photo and film recordings, audio and video recordings, information databases and data banks and other media as "documents" as evidence of an administrative offence.

<sup>57</sup> Evidence of legally relevant facts by means of video and audio recordings is also actively used in corporate practice when certifying decisions of meetings of

participants in non-public corporations by virtue of Article 67.1 paragraph 3 of the Civil Code of the Russian Federation. Video and audio recordings of general meetings and meetings of the board of directors and other collegial corporate bodies ensure the implementation of the principles set out in the Corporate Governance Code of the Bank of Russia.

<sup>58</sup> An interesting issue is the recognition of an audio recording of a court session in another dispute as "electronic evidence". It is known that statements of individuals involved in a case, including the statements given during a court hearing, are evidence. Furthermore, court consent for audio-recording of court hearings is not required.

<sup>59</sup> Photographs, including those taken by digital devices, are sometimes recognised as the main and only evidence in cases in arbitration courts and courts of general jurisdiction.

<sup>60</sup>

#### **5.4. Information from Internet portals of public authorities and organisations (printouts and screenshots).**

<sup>61</sup> Under current clarifications of the Supreme Court of the Russian Federation, admissible evidence includes, inter alia, printouts of materials posted on an information and telecommunications network (screenshot) made and certified by persons participating in the case, indicating the address of the website from which the printout was made, as well as the exact time of its receipt. Such printouts shall be evaluated by the court in the hearing of the case along with other evidence.

<sup>62</sup> The following Internet portals shall serve as evidence: Registers of the Federal Tax Service of the Russian Federation (Unified State Register of Legal Entities; Unified State Register of Individual Entrepreneurs); Fedresource (portal Unified federal register of information on the activities of legal entities, individual entrepreneurs and other subjects of economic activity); Russian Post portal in the section for tracking the history of court correspondence by their tracking numbers; Unified State Register of Real Estate (Rosreestr); Business information resources.

<sup>63</sup>

#### **5.5. SMS messaging, business messengers and social networks.**

<sup>64</sup> Recently, it has become customary for business entities' managers and employees to use SMS messages, as well as messages via business messengers and social networks (Skype, Viber, WhatsApp, Telegram, Signal, Facebook Messenger, Wire, Amo, Microsoft Teams, Twist, Discord, TamTam, Dialog messenger, Yandex Chats (ex. Yamb), Cisco Spark, Hangouts, Rocket Chat, Myteam, Zulipchat, VIPole Secure Messenger, Google Messages/ICQ, Line and many others) as evidence in court. In particular, the courts recognize the fact of sending a pre-trial claim through messengers.

<sup>65</sup>

#### **5.6. Electronic copies (image) of a document.**

<sup>66</sup> As a general rule, a copy of a document drawn up in a paper form may not serve as evidence of the relevant fact in the case in the absence of the original. The need to provide the original document initially produced in a paper form, as well as the right of the court to demand them, is reflected in paragraph 9 of Resolution No. 57 of the Plenum of the Supreme Court of the Russian Federation dated December 26, 2017. On the other hand, in some cases it may be obvious that the other party to the case (for example, former CEO in a corporate dispute, heirs in an inheritance dispute or spouses in divorce proceedings), having actual access to the original, has deliberately disposed of this evidence. Besides, it may happen that only an electronic copy is preserved, for example in PDF or JPEG format. In addition, the parties may initially agree to communicate electronically and to send electronic images (copies) of documents via e-mail and other means of telecommunication.

<sup>67</sup>

### **5.7. Digital imprint of website content (web archives).**

<sup>68</sup> Digital technology stores the history of changes to the site content in DATA centres, making "digital imprints" of the relevant pages of the sites. Examples are foreign ( [>>>>](#) ) and Russian sites ( [>>>>](#) , [>>>>](#) ).

<sup>69</sup>

## **6. ELECTRONIC CASE REVIEW (E-REVIEW)**

<sup>70</sup> In the modern digital justice system, there are several ways of electronic familiarisation of the participants of the process with the case file: in cases considered under the simplified procedure; in cases considered under the general rules of action proceedings or proceedings on cases arising from administrative and other public legal relations. In the first case, the court must provide the parties and third parties in the case with a code of access to the electronic case file. It is not required to send the respective application to the court, and the access code is provided automatically by sending a postal order to accept the statement of claim and examine it in simplified proceedings. The second procedure of familiarisation involves an application to the court for familiarisation electronically with the case file.

<sup>71</sup> Many arbitration courts in Russia have a procedure for examining case files electronically. The development of such a regime corresponds to the Instruction on record keeping in arbitration courts of Russia. The sanitary and epidemiological situation in Russia and around the world, as well as the measures taken to limit the spread of the new coronavirus infection, have been a major impetus for the development of this familiarisation regime. In addition, this procedure is in line with the concept of digitalisation of the domestic judicial system.

<sup>72</sup>

The procedure under consideration for electronic familiarization with cases considered under the general rules of action proceedings or proceedings in cases arising from administrative and other public legal relations operates in the Arbitration Court of the Moscow District. In the "My Arbitrator" service on the home page, the participant selects "Applications and petitions", enters the case number and on the "Type of application" tab selects "Application for familiarisation with case materials". Then, on the "Documents" tab of the application form, the case participant checks the "Grant access to the case file in restricted mode" box. Other fields of the form, which must also

be filled in, are: registration of the petition by a court employee and automatic notification of the document registration by the system; approval of the petition by the judge hearing the case; granting 24 hour access from the date of approval of the application, for which a notification containing the access code and the validity period of the code is sent to the participant in the case.

## <sup>73</sup> **7. COURT NOTICED. ELECTRONIC DISPATCH OF JUDGMENTS**

<sup>74</sup> In Russia, different forms of court notices of the participants of the proceedings are used, depending on the type of court proceedings.

<sup>75</sup> In arbitration proceedings, the information about accepting a statement of claim or application for proceedings, as well as the information about the time and place of the court hearing or a separate legal proceeding shall be posted by the arbitration court on their website no later than fifteen days before the court hearing or a separate legal proceeding, unless otherwise provided by the procedural law.

<sup>76</sup> In several arbitration courts, in particular, the Arbitration Court of Moscow, a service for sending judicial acts electronically in the form of registered letters through the Software Package "Litigation of arbitration proceedings" is available. Service allows to choose the necessary judicial act and send it by registered electronic mail, and defines its status ("sent", "returned", and so on).

## <sup>77</sup> **8. ONLINE SESSIONS. INTERNET COURTS**

<sup>78</sup> Currently, there is an ongoing discussion on the choice of an efficient technological platform to provide online sessions in Russian courts. Historically, the remote mode of court hearings started to function through videoconferencing. However, court hearings via videoconferencing and online hearings are not identical.

<sup>79</sup> Sessions using videoconferencing are provided by the specialists of the software and hardware department of the relevant courts (under the mandatory condition that the participants of the dispute visit the court building), while the online sessions are run through the information system "My Arbitrator", with the authorisation via Unified identification and authentication system, which allows to participate in the session without visiting the arbitration court building (from the office, home, and so on).

<sup>80</sup> In order to prevent the spread of COVID-19, the Supreme Court of the Russian Federation recommended that courts in a number of categories of cases (in urgent situation), hold court sessions using a video-conferencing system and (or) a web-conferencing system, if it is technically possible, and if the opinion of participants of court proceedings have been taken into account.

<sup>81</sup> In the case of a court session via web conference, participants of court proceedings submit to the court an application in electronic form with attachment of electronic images of documents proving their identity and authority. The Arbitration Court of the Yamal-Nenets Autonomous Area held its first online session on April 28, 2020.

<sup>82</sup> Currently, the system of online sessions operates in 100 arbitration courts (out of total 118 arbitration courts), including the Supreme Court of the Russian Federation, all district arbitration courts and a number of courts of first and appellate instances. The Supreme Court of the Russian Federation has long practiced online sessions of the Plenum of the Supreme Court of the Russian Federation.

<sup>83</sup> In Russia, online sessions are provided by the portal "My Arbitrator" through the "Online Meetings" tab.

## <sup>84</sup> **9. COURT CHAT-BOT**

<sup>85</sup> A court bot (court robot) is a robotic program that allows to automatically answer the applicants' questions or perform other actions related to court proceedings.

<sup>86</sup> In Russia, LegalTech-companies began to develop first legal chatbots (Zscheige 2020) to help legal practitioners (for example, InfoCourt Bot, LawProInfoBot, Docubot and LawBot), which allow them to monitor the upcoming trials, change information on incoming claims, publish court acts on kad.arbitr portal, upload cases to calendar, create and analyze legal documents, interact with courts and state registries, and so on.

<sup>87</sup> Specialised court chatbots are being developed. For example, the Pravo.ru team has developed a virtual assistant, the Arbitrator-bot. It is available on all e-justice service pages, and is trainable. The peculiarity of its work is the concreteness of the question. Thus, the more questions are asked, the more accurately the Arbitrator-bot answers.

## <sup>88</sup> **10. THE JUDICIAL CLOUD**

<sup>89</sup> The issues of digital structuring and storing in the cloud services of information in electronic form are discussed in legal, economic and technical literature (Laptev and Solovianenko 2019b; Deshko et al. 2016; Reese 2009). The development of "judicial cloud" seems promising for the domestic judicial system.

<sup>90</sup> The technological structure of a cloud storage facility should have a reliable and secure architecture, including the appropriate level of Data Centres. Many existing cloud storage facilities on the Russian IT market (for example, Dropbox, Google Disk or iCloud) are administered in foreign countries by foreign corporations. Additionally, the actual storage (including a backup storage) of information in Data centres is also performed outside the Russian Federation. The need to develop Russian business in this area of information services has been reflected in the Strategy for the Development of the Information Technology Industry in the Russian Federation for 2014-2020 and for the period until 2025.

<sup>91</sup> The following principles should guide the construction of a judicial cloud in Russia: technological access of Russian courts to the judicial cloud; guaranteeing the protection of digital information; backing up the judicial cloud (backup copy); location of the Data Centre(s) in Russia; a technological alternative in the management of the judicial cloud (Laptev and Solovianenko 2019b).

## <sup>92</sup> **11. APPLICATIONS OF ARTIFFICIAL INTELEGEENCE IN COURT**

<sup>93</sup> Two applications of artificial intelligence are suggested: court proceedings and general litigation issues; and estimation of evidence and determination of legally significant circumstances.

<sup>94</sup> In revealing the spheres of AI application on general issues of court proceedings, the following factors are singled out: language of court proceedings, digital protocol, formation of court composition and category of cases, digital writs of execution, and so on.

<sup>95</sup> Special questions, solved by AI, can be an assessment of evidence and establishment of legally significant circumstances in separate categories of disputes: legal assessment of the concluded deal, calculation of damages, determination of limitation periods, conciliation and amicable settlement, deepfake and other high-quality forgeries of evidence.

<sup>96</sup> The development of digital technology in the era of information society and big data has proved the prospect of introducing artificial intelligence in court (Laptev 2021). It has become apparent that artificial intelligence is our present, not the future as we have recently argued. However, there is still a long way to go for software engineers working together with neurobiologists to build an artificial cognitive system that approximates in structure and capabilities the human brain, which in turn has not been fully investigated by science.

<sup>97</sup> The proposals of the leadership of the Supreme Court of the Russian Federation and the Council of Judges of Russia (Council of Judges of the Russian Federation 2020) regarding the gradual introduction of a "weak artificial intelligence" capable of solving highly specialised tasks in court are seen as timely.

<sup>98</sup> Proceeding from the understanding of artificial intelligence as a simulated (artificially reproduced) intellectual activity of human thinking, the following stages of its introduction into the system of domestic courts can be suggested:

<sup>99</sup> Short-term perspective: introduction of artificial intelligence as an assistant to a human judge on certain issues of case management and in the consideration of the merits of the case.

<sup>100</sup> Medium-term perspective (5-10 years): allowing to consider artificial intelligence as the judge-human companion of the judge, including the question of estimation of several proofs.

<sup>101</sup> Long-term perspective: possible replacement of the judge-human with an artificial intelligence on performance of separate functions of the judge-human at administration of justice.

<sup>102</sup> The proposed forecast of stages of introduction of judicial artificial intelligence (judicial-AI) is based, first, on the level of information technologies development. Artificial intelligence, which approximates to cognitive abilities of human brain and billions of its neurons, has not been created yet. The computational function of existing cyber-physical systems is effective, but still narrowly focused. It will take a long time to create an objective, erudite and "intelligent" forensic neural network.

<sup>103</sup> It seems that soon, AI will recognize and translate into Russian (the language of court proceedings) in a readable digital format any documents; keep a digital record of the proceedings; automatically determine the specialization of judges by category of cases and distribute cases among the judges of the relevant court; administer the issuance of digital writs of execution and subsequent monitoring of their legal fate. Certain functions of the judicial-AI can be performed in voice assistant mode (like Siri, Alice or Sberbank Online).

<sup>104</sup> The next stage will be the participation of AI in the legal assessment of a number of evidence in the case, in particular, to determine the category and legal properties of the transaction (for example, a major transaction or a transaction with an interest in a corporate dispute, the form of the transaction, the date of the transaction and the authenticity of the electronic signature); check the calculation of claims (including the amount of contractual penalty, real damage or loss of profit); determine the statute of limitations and the period for filing a claim; offer to reconcile the parties (such as the options for settlement options or legal perspectives on the use of mediation procedures); and calculate deepfake and other forgeries.

<sup>105</sup> Artificial intelligence at this stage is possible only in liaison with a human judge - by analogy with a co-robot (a robot controlled by a human). It is a combination of AI working either in tandem with a human judge or under judge's control in the field of legal-machine processing and evaluation of evidence as information about the facts on which the parties justify their position in court.

<sup>106</sup> For the gradual introduction of judicial-AI, the following is needed: - digitisation of all textual documents coming into court into the electronic machine-readable form, respecting uniform formats and standards, with the possibility of their subsequent transformation into other formats (namely, PDF, RTF, DO and DOCX); - eliminating the digital divide among civil actors and ensuring technological access to digital justice; - providing AI access to the integration bus of the IEIS (inter-agency electronic interaction system) and to all kinds of Big Data; - developing a cloud-based model of AI working remotely through the Internet telecommunication network and administering it by the highest courts, the Supreme Court and the Constitutional Court, respectively; - adoption of regulatory legal acts regulating the possibility of transferring part of the functions of a human judge to artificial intelligence; - formation of a unified space of trust in the digital environment and a legal culture of application of artificial intelligence.

<sup>107</sup> Recognition of the possibility of artificial intelligence work in court entails legal-machine processing and evaluation of evidence in a case (information about facts), based on which a court decides.

<sup>108</sup> As a general conclusion, it follows that technology of judicial artificial intelligence work should be open, reliable and transparent for all citizens, economic agents and society. This approach will ensure public confidence in the court and in the modern information technology that is being introduced into its work, such as artificial intelligence and cloud computing.

As a result of the introduction of information technology into the activities of Russian courts, the following procedures have been optimized: electronic interaction between participants in the process and the court, document management in court, storage of court files, and so on. Internet portals of courts of all levels increased accessibility to information on court activities. In addition to traditional elements of e-justice, the latest digital technologies, cloud computing (storage and use of electronic), online (remote) courts and artificial intelligence (companion judge-human) are being introduced. The approaches to the legal assessment of electronic evidence (electronic documents, messages in social networks and business messengers, web-archives) and court hearings are changing, some of which take place without summoning the parties and without face-to-face court hearings. The presented analysis defines the possible ways of development of modern electronic justice in Russia. The suggested approaches and successful examples of Russian electronic justice can be used by judicial systems of other states.

#### Примечания:

1. Software and hardware complex providing for the conduct of court proceedings, recording in electronic form the results and progress of procedural actions performed by the court and other participants in court proceedings

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# E-Justice in Russia

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## Abstract

Electronic justice in Russia is part of the general trend of digitalization of public authorities. The present work reveals the main elements of electronic justice in Russia at the current stage. The paper examines trends and patterns in the development of electronic justice focusing on the needs of civil society and the business community. It also explores positive and controversial aspects of the introduction of digital technology in court. The study provides an overview of certain aspects of digital justice, requiring the state to ensure equal technological accessibility and elimination of digital inequality among participants of the judicial process. The research formulates the limits of the use of information technology in court, considering the technological accessibility to the electronic court. The present study forms a holistic view of the state of Russian electronic justice.

**Keywords:** electronic justice, electronic document management, electronic evidence, online courts, remote hearings, court bot, court cloud, artificial intelligence, cyborg judge

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