Article

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Integrating Digital Technologies into Russian Legal Arbitrazh Proceedings: Current State and Prospects for Development

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Abstract: The high demand of contemporary society for digital technologies application in legal proceedings is evidenced in legal practice. Advancements in technologies enabling remote participation in court proceedings and interaction of trial participants with the court have ensured procedural efficiency at all stages of case hearings. The article delves into the information technologies currently utilized in Russian arbitrazh courts, as well as potential pathways for further development of digitization. This study also examines the experiences of foreign countries and the extent of integration of digital technologies into legal proceedings. The article provides an overview of the information technologies utilized at various stages of judicial proceedings in Russian courts, starting from filing a claim in court, then during its substantive consideration by the court, and concluding with the issuance of a judicial act. The author suggests digitizing a significant portion of the judicial process, including electronically filing lawsuits and processing documents, paying court fees and expert examination costs, as well as sending court notifications to the parties involved in the process. During court hearings, it is proposed to only maintain an electronic record of the court session (electronic secretary), as well as actively utilize electronic evidence. The article discusses further enhancement of automated decision-making technology (smart judicial decisions), with subsequent implementation of digital mechanisms for the enforcement of judicial acts. In conclusion, the author emphasizes the effectiveness of the existing convergence of legal and technological aspects, enabling

transparency, openness, and impartiality in justice at the current stage of social development.

Keywords: electronic justice; digital court; artificial intelligence; electronic case; electronic notifications; electronic evidence; digital records; digital secretary; GPT digital chat; machine decision

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Contents

I. Introduction

The development of digital justice in Russia is a priority task for the state aimed to increase confidence in the judicial system, particularly in the context of digital inequality.[1] Over the past decade, the integration

[1] Resolution of the Government of the Russian Federation "On the federal target program 'Development of the Russian Judicial System for 2013–2024'" No. 1406 dated 27 December 2012 and Order of the Government of the Russian Federation

of elements of electronic justice into arbitrazh proceedings has been evident in procedural legislation and acts of Russian highest courts, in particular, Resolution of the Plenum of the Supreme Court of the Russian Federation "On certain issues of applying the legislation regulating the use of documents in an electronic form in the activities of courts of general jurisdiction and arbitrazh courts" No. 57 dated 26 December 2017, Order of the Judicial Department at the Supreme Court of the Russian Federation "On approval of the Procedure for Submitting Documents to the Arbitrazh Courts of the Russian Federation in an Electronic Form, including in the Form of an Electronic Document" No. 252 dated 28 December 2016 and Resolution of the Plenum of the Supreme Arbitrazh Court of the Russian Federation "On approval of the Instructions for Case Management in Arbitrazh Courts of the Russian Federation (First, Appellate, and Cassation Instances)" No. 100 dated 25 December 2013.

Russian arbitrazh courts employ a system of electronic document submission, including through the offices of Multifunctional Centers (MFC), electronic registers of court cases, an automated system for distributing cases among judges, depending on the specialization of judicial panels, video conferencing and online court hearings, as well as many other elements of digital justice (Vorontsova et al., 2020; Burdina et al., 2021; Laptev and Solovyanenko, 2022; Rusakova et al., 2022). However, there is a long-term task ahead for legal experts to collaborate with engineers and programmers for the future development and optimization of digital justice, including by implementing artificial intelligence and cloud computing, as well as electronic interdepartmental interaction between the court and executive authorities.

The potential pathways for promoting digitalization in domestic arbitrazh proceedings explored in this research will ensure significant procedural savings for both the participants and the court and will help eliminate a number of technical and legal errors caused by human factors (Laptev, 2023, pp. 168–187).

"On approval of the Spatial Development Strategy of the Russian Federation for the period until 2025" No. 207-p dated 13 February 2019. (In Russ.).

II. Case Management in Court

II.1. Electronic Filing of a Lawsuit and Electronic Case Form

The procedural legislation enshrines the claimant's right to file a lawsuit in court in both paper form and electronically, including in the form of an electronic document.[2] To that end, the claimant independently determines the optional form of application to court, which corresponds to the constitutional right to judicial protection and access to justice.[3]

The analysis of foreign legal systems and their experiences shows that certain countries require that all court filings be submitted exclusively in an electronic form (Mutovina, 2018, pp. 537–540; Kapustin, 2019, pp. 86–94). For example, according to Art. 10-1 of the Civil Procedure Code of the Republic of Azerbaijan[4], judicial proceedings for *commercial disputes*, including the submission and receipt of applications, complaints, and other documents, as well as the provision of court documents to the court and trial participants, are conducted through an electronic account created on the Electronic Court information system (paperless document management form). In Singapore, following the implementation of the *Electronic Filing System (EFS)* and eLitigation system[5] in 2000, the submission of documents to the court and provision of information about the progress of legal proceedings became fully automated in electronic format. This practice is also supported by judicial systems in other countries.

England is developing a specialized system for digital dispute resolution based on the application of digital methods and innovations

[2] Part 1 Art. 125 of the Arbitrazh Procedure Code of the Russian Federation (hereinafter referred to as the APC RF). (In Russ.).

[3] Art. 46 of the Constitution of the Russian Federation, Subpara. 2 of Para. 1 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On certain issues of the application by courts of the Constitution of the Russian Federation in the administration of justice" No. 8 dated 31 October 1995. (In Russ.).

[4] Available at: https://continent-online.com/Document/?doc_id=30420065 (In Russ.). [Accessed 15.06.2024].

[5] Available at: https://www.elitigation.sg/_layouts/IELS/HomePage/Pages/Home.aspx [Accessed 15.06.2024].

(*Digital Dispute Resolution Rules. Version 1.0*, 2021[6]). The subject of disputes considered are digital relationships with respect to crypto-assets, crypto-currencies, and smart contracts, which are resolved in a digital environment using the Internet and artificial intelligence.

According to Parts 2, 4–6 Art. 27 of the APC RF qualified lawyers represent the participants in the domestic arbitrazh procedure typically including manufacturing and investment companies, shareholders and members of corporate organizations, trustees in bankruptcy, professional participants of the stock market, and other individuals. The level of digital literacy among members of the legal community indicates their proficiency in using information technologies, including personal computers, laptops, tablets, or other gadgets. In this respect, there are no objective barriers to establishing a legislative requirement for the electronic submission of lawsuits to arbitrazh courts for specific categories of cases, particularly:

— for claims involving the recovery of monetary funds, where the parties are commercial legal entities;

— for corporate disputes;

— for court orders, etc.

It is proposed to introduce an *electronic case form* making it possible to fill in the respective "windows" containing the following information:

— details of the individuals involved in the case (Taxpayer Identification Number, Primary State Registration Number, Individual Insurance Account Number, email, address, etc.);

— grounds for the claims (in contract, not in contract, in tort, etc.);

— the amount of the monetary claim (distinguishing between the principal debt or unjust enrichment; contractual penalties or statutory interest; judicial penalties, etc.);

— the amount of the state duty paid upon filing the lawsuit (or for which a deferral or installment plan has been requested under Art. 333.41 of the Tax Code of the Russian Federation);

— the date of sending a pre-action letter to the respondent;

[6] Available at: https://35z8e83m1ih83drye28009d1-wpengine.netdna-ssl.com/wp-content/uploads/2021/04/Lawtech_DDRR_Final.pdf [Accessed 15.06.2024].

— jurisdiction (contractual, exclusive, alternative, or general) and any other relevant information.

To implement this proposal, it will also be necessary to *structure the interface of the My.Arbitr* portal in such a way as to ensure that upon the submission of documents to court, there is an option to attach files to each of the listed pieces of information (electronic form), for example, a claim calculation to the Claim Amount section or a payment order to the State Duty section. Additionally, when the judge downloads the electronic case, all previously attached documents should be compiled into a single case stored in the judicial cloud (Laptev and Solovyanenko, 2019, pp. 195–204; Kartskhiya, 2018, pp. 162–172).

For the convenience of filling out the electronic case form, it is possible to create specialized programs integrated into the electronic case form. For instance, in the USA, AI featured service *DoNotPay*[7] is used for automatic completion of the complaint form. In recent years, Europe has been actively promoting online case processing and electronic communication with courts, as well as electronic submission of claims using e-CODEX technology through email linked to a registered user account.[8]

In Germany, requirements for electronic documents, the procedure for creating a special user account linked to an email inbox, and other aspects are regulated by Resolution of 24 November 2017 on the technical framework terms for electronic legal transactions and a special electronic mailbox.[9]

When technologically synchronized with the databases of the Federal Tax Service of Russia (Transparent Business, Unified State Register of Legal Entities, Unified State Register of Individual Entrepreneurs, etc.), the electronic form of the information platform of arbitrazh courts will make it possible to automatically determine the status (legal capacity)

[7] Available at: https://donotpay.com/ [Accessed 15.06.2024].

[8] Online processing of cases and e-communication with courts. Available at: https://e-justice.europa.eu/280/EN/online_processing_of_cases_and_ecommunication_with_courts [Accessed 15.06.2024].

[9] Verordnung über die technischen Rahmenbedingungen des elektronischen Rechtsverkehrs und über das besondere elektronische Behördenpostfach. Available at: https://www.gesetze-im-internet.de/ervv/ (In Germ.). [Accessed 15.06.2024].

of the parties involved in the case; the jurisdiction of the court, etc. As a result, the court will faster respond to incoming applications by modifying the corresponding draft court rulings, for example, a ruling to refuse to accept an application for a court order upon liquidation of the defendant,[10] or a ruling on the return of a statement of claim due to a violation of the rules on the jurisdiction of corporate disputes in the event of filing a claim not at the corporation's address.[11]

The electronic case form, when diligently and conscientiously filled out by the plaintiff (claimant), will also eliminate technical errors on the part of the court (typos or clerical errors in judicial acts). However, such an innovation will require the establishment of the risk of adverse consequences for the party[12] that made errors when filling out the form.

II.2. Payment of the State Duty and Depositing Funds into the Court's Account

Violation of the requirements for the statement of claim and the list of documents attached thereto[13] entails corresponding procedural consequences.[14] A mandatory document to be attached to the claim is a document confirming the payment of the state duty (payment order, Sberbank cashier's check, etc.), except where a deferral (installment plan) for its payment is requested.

The amounts of the state duty for cases considered by the Supreme Court of the Russian Federation and arbitrazh courts are determined in Art. 333.21 of the Tax Code of the Russian Federation and depend on the nature of the claims (property or non-property claims).

[10] Para. 21 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On certain issues of the application by courts of the provisions of the Civil Procedure Code of the Russian Federation and the Arbitrazh Procedure Code of the Russian Federation on writ proceedings" No. 62 dated 27 December 2016. (In Russ.).

[11] Art. 38 and 129 APC RF. (In Russ.).

[12] Art. 9 APC RF. (In Russ.).

[13] Art. 125, 126 APC RF. (In Russ.).

[14] *See,* for example, Para. 19 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On the application of Part Four of the Civil Code of the Russian Federation" No. 10 dated 23 April 2019; Para. 21 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On the consideration by arbitrazh courts of cases arising from relations complicated by a foreign element" No. 23 dated 27 June 2017. (In Russ.).

Taking into account the proposal to introduce an electronic case form, which includes information about the amount of monetary claims and details of the state duty payment, it is necessary to implement digital technology that would allow for algorithmic comparison of the provided information and making electronic notations (conclusions) regarding the proper calculation and actual payment of the state duty.

For the technology to work correctly, integration with the Federal Treasury database will also be required to verify the fact of payment of the state duty with the data of the electronic file. Not only the court but also the applicant should see the information about the correct calculation and payment of the state duty in the electronic case form.

Similarly to the proposal regarding the state duty, record should be kept in the electronic case file concerning the funds deposited by the case participants into the arbitrazh court's account, which are to be paid to experts and witnesses,[15] as well as to trustees in bankruptcy cases and for applications for the appointment of a procedure for the distribution of the liquidated organization's assets.

First, such technologies will enable the court to promptly establish whether the funds are deposited (credited) to the deposit account. It is known that the absence of funds in the court's deposit account is the ground for rejecting a motion to appoint a judicial examination.[16]

Second, the interface of the electronic case will enable the trial participant to deposit funds electronically (i.e., by modifying a QR code) using the current details of the deposit account, which include the corresponding codes. For example, when paying to the deposit account of the Moscow Arbitrazh Court in accordance with the Procedure for Authorizing Operations with Funds Temporarily Placed at the Disposal Recipients of Funds from the Federal Budget,[17] the payment order is to include the code of the regulatory act (RA) — 0026 (APC RF) or 0030

[15] Art. 108 APC RF. (In Russ.).

[16] *See*, for example, Resolution of the Plenum of the Supreme Court of the Russian Federation "On certain issues of the practice of application by arbitrazh courts of legislation on expert examination" No. 23 dated 4 April 2014. (In Russ.).

[17] Approved by the Order of the Ministry of Finance of the Russian Federation No. 119n dated 23 June 2020. Available at: https://base.garant.ru/74504705/ (In Russ.). [Accessed 15.06.2024].

(Bankruptcy Law) in gap 22.[18] If such information is absent from the payment document, this interferes with the correct transfer of funds to the court's deposit account.

Similar integrated payment systems are used, particularly in Israel, enabling swift and convenient payment transactions and fee settlements in favor of the courts via the Net HaMishpat portal.[19]

Based on the outcome of the case, it is proposed to enhance the functionality of the judicial platform to automatically request up-to-date banking details from the parties and return any remaining funds from the court's deposit (for example, where the court refuses to secure a claim if the applicant provides counter security). The time spent by the court staff on routine tasks related to inventorying the deposit account decreases.

II.3. Electronic Notifications

The provisions of Art. 125 of the APC RF (as amended by Federal Law "On amendments to certain legislative acts of the Russian Federation" No. 417-FZ dated 21 December 2021), concerning the identification of persons participating in the case, established the obligation for the plaintiff to provide detailed information about the trial participants. Thus, they must include the defendant's (who is a citizen) last name, first name, and patronymic (if any), date and place of birth, residence or place of stay, place of employment (if known), and one of the identifiers (SNILS, INN, passport or driver's license number, or the Primary State Registration Number of the Individual Entrepreneur (OGRNIP)); or organization's name, address, INN, and OGRN. Exceptions occur when the plaintiff is unaware of the defendant's date and place of birth or one of their identifiers, which should be specified in the claim. The court obtains this information on its own by requesting it from the Russian Pension Fund, the tax authority, or the internal affairs bodies. For example, in practice, requests for information about a citizen to the

[18] *See* Moscow City Arbitrazh Court news feed. Available at: https://msk.arbitr.ru/node/16057. (In Russ.). [Accessed 15.06.2024].

[19] Available at: https://www.court.gov.il/NGCS.Web.Site/FolderFinancial/Payment.aspx. (In Hebrew). [Accessed 15.06.2024].

Federal State Institution "Main Informational and Analytical Center of the Ministry of Internal Affairs of Russia" are effective.

It is proposed to implement a system for automatic notification of participants about the initiation of proceedings in an arbitrazh court, including by *electronic mail via Pochta Rossii (the Russian Post),*[20] *email notifications, SMS alerts*, and other means of communication.

The electronic mail from the Russian Post will ensure prompt notification of all parties involved in a dispute, as indicated (stated) in the electronic case form of the arbitrazh case. It will allow not only the defendant but also the plaintiff themselves (for operational control purposes, including cases of fraudulent lawsuit submission to court on behalf of a legal entity without its consent) to be informed of the lawsuit filing (similar to Electronic Guardian) and to track information about it.

Despite that certain regions of Russia have objective limitations as to access to digital technologies (for example, the Far North regions), most trial participants, in particular, individual entrepreneurs, when registering with tax authorities, indicate email addresses in a corresponding column when modifying an extract from the Unified State Register of Individual Entrepreneurs. Founders and general directors of organizations, when submitting registration application forms to tax authorities, indicate email address of a legal entity (Page 4 of Form No. R11001, Page 2 of Form No. R13014), INN for an individual founder (Sheet B of Page 1 of Form No. P11001), the applicant's contact phone number (Sheet I of the form, Page 2 of Form No. P11001, Sheet P of the form, Page 3 of Form No. P13014), etc.[21]

Therefore, tax authorities accumulate information that enables real communication with legal entities or individual entrepreneurs. Similar information is also contained in the respective registries of the Central Bank of Russia, registrars (regarding issuers and their shareholders), the antimonopoly authority, national associations of self-regulatory

[20] Pochta Rossii official website. Recorded Delivery. Available at: https://zakaznoe.pochta.ru/ (In Russ.). [Accessed 15.06.2024].

[21] The Order of the Federal Tax Service of the Russian Federation "On approval of forms and requirements for the execution of documents submitted to the registration authority for the state registration of legal entities, individual entrepreneurs and farm business" No. ED-7-14/617@ dated 31 August 2020. (In Russ.).

organizations (NOSTROY, NOPRIZ), and other entities. It appears that the participants themselves would be interested in the accuracy and relevance of the information, as such data would be deemed reliable until proven otherwise.[22]

The Judicial Department of the Supreme Court of the Russian Federation has launched a Software and Technical Complex for experimental information exchange between the Unified Automated Information System "Justice" ("Pravosudie") and other (external) information systems (PTK VIV) to facilitate interdepartmental cooperation,[23] which could potentially serve as the foundation for the future development of the digital justice sector in question.

SMS notifications are actively employed in general jurisdiction courts.[24] However, it should be noted that such messages are sent with the consent of the trial participants to be notified in such a way (by selecting a receipt with the mobile phone number indicated) and with the recording of the sending and delivery of the SMS notification to the recipient.

Cases of incorrect provision of such information (due to typos or inaccuracies) cannot be excluded, which does not prevent the overall implementation of the proposal.[25] Business entities will be required to exercise diligence and ensure updating of their contact information in a timely manner. In the event of a loss of a phone (tablet or any other communication device) due to unlawful actions by third parties, they must promptly report this to the appropriate authorities.

This innovation could be taken into account when addressing the issue of mandatory out-of-court settlement of disputes regarding monetary

[22] *See* Para. 2 Art. 51 of the Civil Code of the Russian Federation; Para. 22 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On the application by courts of certain provisions of Section I Part One of the Civil Code of the Russian Federation" No. 25 dated 23 June 2015. (In Russ.).

[23] Judicial Department at the Supreme Court of the Russian Federation. Red Soft Operating System website. Available at: https://www.red-soft.ru/en/node/61 (In Russ.). [Accessed 15.05.2024].

[24] *See* Para. 36 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On the preparation of civil cases for judicial examination" No. 11 dated 24 June 2008. (In Russ.).

[25] Part 2 Art. 9 APC RF. (In Russ.).

claims.[26] It is known that in order to dismiss a claim for reasons of non-compliance with the out-of-court (pre-action) procedure, as stated by the defendant, the court should take into account two circumstances. First, the petition to dismiss the claim must be filed no later than the day the defendant submits the first statement on the merits of the dispute and the defendant expresses the intention to resolve it. Second, if, at the time of filing the petition, the period for out-of-court settlement has not expired and there is no response to the application or other document confirming compliance with such a settlement.[27] Automatic notification of the defendant about the filing of a lawsuit can also facilitate out-of-court settlement of the dispute (before the preliminary court hearing) or establish the fact of the defendant's evasion from genuine out-of-court resolution of the disagreement (conflict or dispute).

Notification of the filing of a lawsuit in court will also serve as an additional technological tool, ensuring that the trial participants are informed about a case in the arbitrazh court. Thus, the notification of a preliminary court hearing, which must be sent to the party at least 15 business days in advance,[28] allows the court to start a court session upon the completion of the preliminary stage and proceed to considering the case on its merits.[29] In practice, the publication of a court ruling on the acceptance of a lawsuit for consideration and the scheduling of a preliminary hearing may take a long time to be uploaded to the external circuit of the Judicial Arbitrazh Case Management software complex — KAD.Arbitr information portal. Besides, an electronic mail from Pochta Rossii may be delayed in reaching its recipient for various reasons. The electronic notification in question may be recognized as proper notification of the party.

[26] Part 5 Art. 4 APC RF. (In Russ.).

[27] *See* Para. 28 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On certain issues of out-of-court settlement of disputes considered in civil and arbitrazh proceedings" No. 18 dated 22 June 2021. (In Russ.).

[28] Art. 121 APC RF. (In Russ.).

[29] *See* Art. 137 APC RF and Para. 27 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On the preparation of a case for judicial examination" No. 65 dated 20 December 2006. (In Russ.).

In arbitrazh proceedings, there is a rule that when the participants in the arbitrazh proceedings receive the first judicial act related to the case, such as a notification of a lawsuit filing in court, they must further monitor the information about the case on their own on the KAD.Arbitr portal.[30]

Understanding the procedural complexity of notifying certain categories of individuals, particularly foreign individuals or organizations, procedural legislation includes a range of "tools." Thus, in corporate disputes, the court has the authority to compel the corporation itself (the issuer) to notify members of the civil law community, particularly members of the corporation's bodies.[31] Similar and other transparency mechanisms can be further detailed and expanded in light of the considered innovations.

The procedural efficiency resulting from the considered forms of electronic notifications and service of judicial documents through users' personal accounts has led to their adoption abroad as well, for example, such a norm can be found in the Republic of Azerbaijan.[32] In Kazakhstan, there is a rule as to electronic court notification of trial participants (via email address or mobile phone number, as well as using other electronic means of communication that ensure the notification or summons be recorded). Only where such information is unavailable, the court notifies participants in a traditional way through paper summonses or notifications sent to the last known place of registration or address.[33] In several countries, Uzbekistan in particular, legislation recognizes as appropriate electronic court notifications sent to email addresses

[30] *See* Para. 15 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On certain issues of applying the legislation regulating the use of documents in an electronic form in the activities of courts of general jurisdiction and arbitrazh courts" No. 57 dated 26 December 2017; Para. 13 of Resolution of the Plenum of the Supreme Arbitrazh Court of the Russian Federation "On procedural deadlines" No. 99 dated 25 December 2013; etc. (In Russ.).

[31] Part 3 Art. 225.4 APC RF. (In Russ.).

[32] *See* Art. 135 of the Civil Procedure Code of the Republic of Azerbaijan.

[33] *See* Art. 127 of the Civil Procedure Code of the Republic of Kazakhstan. Available at: https://adilet.zan.kz/rus/docs/K1500000377 (In Russ.). [Accessed 15.06.2024].

provided by the parties themselves in their procedural documents[34] or in their personal accounts, such as in the *Integrated Case Management Program*[35] in Moldova.[36]

It is advisable to explore the integration of the court notification system regarding case progress with the databases of mobile operators concerning the owners of phone numbers (such as MTS, Megafon, Beeline, Tele2, etc.), which could be considered as an additional tool for informing trial participants. It seems that, as far as this matter is concerned, amendments to Federal Law "On communications" No. 126-FZ dated 7 July 2003[37] will be necessary in order to strengthen the identification of actual owners of phone numbers.

In Russia, the implementation of electronic notification of trial participants will be facilitated by information platforms such as GosUslugi, Mos.ru, and others (Kurbanov, Gurbanov and Belyalova, 2019, pp. 56–63; Ponomarenko, 2015).

II.4. Electronic Case

Currently, the Instructions for Case Management in Arbitrazh Courts[38] prescribe the following. The judicial staff specialist must compile and bind case files as soon as materials are received; number the pages of the case file (Para. 1.4). There is the requirement to number the pages of the case file when the parties are familiarizing themselves therewith (Para. 12.6). The numbering should be done with a ballpoint

[34] *See* Art. 159 and 189 of the Civil Procedure Code of the Republic of Uzbekistan. Available at: https://lex.uz/docs/3517334 (In Russ.). [Accessed 15.06.2024].

[35] Moldova Informational Portal on the Justice Sector. Available at: https://www.justitietransparenta.md/ru/ (In Russ.). [Accessed 15.06.2024].

[36] *See* Art. 102 of the Civil Procedure Code of the Republic of Moldova. Available at: https://www.legis.md/cautare/getResults?doc_id=143277&lang=ru# (In Russ.). [Accessed 15.06.2024].

[37] Available at: https://www.consultant.ru/document/cons_doc_LAW_43224/ (In Russ.). [Accessed 15.06.2024].

[38] *See* Resolution of the Plenum of the Supreme Court of the Russian Federation "On approval of the Instructions for Case Management in Arbitrazh Courts of the Russian Federation" (first, appeal and cassation instances) No. 100 dated 25 December 2013 (as of 11 July 2014). Available at: https://www.consultant.ru/document/cons_doc_LAW_159645/3fdbb0ce42026c90ed283a0cd95f4cc442561e5a/ (In Russ.). [Accessed 15.06.2024].

pen using black, blue, or purple ink, in Arabic numerals in the upper right corner, without interfering with the text of the document (Para. 22.11). The numbering of case file pages with letters (for example, 5a, 5b, etc.) is not permitted. The mentioned functionality requires a significant amount of time from the specialist and constitutes "technical" work that does not necessitate legal expertise.

The development of the electronic document filing system in court allows for the automatic generation of an *electronic arbitrazh case,* which includes electronic pagination of case materials in a chronological order. The creation of an electronic case will also ensure the accurate transfer of the case to higher instances in the event of an appeal against a judicial act.

The transfer of an electronic case from an arbitrazh court to a general jurisdiction court will present a challenging issue. If a unified judicial cloud system is implemented for all Russian courts, there will be no technical obstacles to a swift transfer of cases, as it will only require granting the judges access to cloud data.

The issue of technological connectivity among Russian courts requires addressing the overarching task of building a *cloud-based system for exchanging cases* between arbitrazh courts and courts of general jurisdiction, particularly when transferring cases based on jurisdiction or making judicial requests. It is proposed to supplement the Instructions for Case Management in Arbitrazh Courts with provisions regulating the procedure for creating an electronic case, transforming certain paper documents into electronic format, and vice versa.

The implementation of an electronic case system does not impede the exercise of procedural rights when assessing written evidence.[39] In particular, in the event of a motion alleging evidence forgery under Art. 161 APC RF, the court requests the party to provide the original document, explains the relevant criminal consequences, and then evaluates the evidence accordingly. Thus, the provisions of the current procedural legislation do not require significant amendments with the introduction of an electronic case system, and the assessment of evidence can be conducted within the framework of the existing norms under Chapter 7 of APC RF.

[39] Art. 75 APC RF. (In Russ.).

II.5. Digital (Telephone) Secretary and Court Chatbot

The Instructions for Case Management in Arbitrazh Courts stipulate the possibility of obtaining information about the progress of arbitrazh cases through oral telephone inquiries throughout the working day (Para. 45.6), the operation of the hotline (Para. 41.3), and so on.

Existing information platforms include separate elements of a digital secretary, assisting in finding answers to applicants' questions (for example, *Arbitr-bot* or *MyArbitr Bot* (@my_arbitr_bot) in Telegram, developed by the Pravo.ru team.

It is proposed to utilize the *digital (telephone) secretary* for the phone lines of judicial departments, the information service, and the hotline, as well as the *chatbot of the arbitrazh court*, administered by a specific arbitrazh court, taking into account their case management specifics. Certainly, this does not exclude the possibility of traditional voice communication with a court staff member when necessary, which can be initiated by dialing a specific command on the phone.

To a certain extent, many phone calls are aimed at obtaining information about:

— the date of uploading (erroneous upload) of court documents in the KAD.Arbitr system;

— sending enforcement orders to the claimant's address or issuance thereof to a representative (for example, when a ruling on securing the claim is made);

— scheduling (or rescheduling) the time for reviewing case materials (including in the form of electronic access);

— the progress of the case through judicial instances;

— the receipt of responses to the court's requests and rulings on the collection of evidence in the case;

— the crediting (or return) of funds to the arbitrazh court's deposit account, and so on.

The digital secretary should notify about recording the phone conversation and inform that court staff do not provide legal advice.

In practice, neural networks and chatbots based on *Bidirectional Encoder Representations from Transformers* (BERT) programs (Devlin, Chang, Lee, and Toutanova, 2018) or GPT-3 and GPT-4 (Ivtushok, 2020;

Kopiev, 2023) have demonstrated high efficiency in not only processing natural language but also in self-improvement (learning).

Providing prompt responses to inquiries from parties in an automated manner will help reduce the number of complaints about the actions of judges and the court administration.

III. Court Session

III.1. Electronic Court Records of a Court Session

Pursuant to Parts 4 and 5 Art. 58 APC RF, the session secretary keeps records of a court session, including using audio recording devices.

Despite the duty assigned to the session secretary to accurately and fully record the actions and decisions of the court and the trial participants in the court records, this obligation does not entail the requirement for stenographic recording, which is the court's prerogative in certain cases (for example, during the stenographic recording of the examination of an expert or witness). Additionally, the audio records of a court session serves as the primary means of recording information about the course of the court session and ensuring the transparency of the judicial proceedings.[40] The physical medium of the audio recording is attached to the case[41] and the presiding judge and the secretary of the court session or the judge's assistant sign the written court records.

Thus, procedural legislation mandates that the court of first instance and the appellate instance maintain two forms of court records: *written (hardcopy)* and *electronic*.

The question of the advisability of maintaining a hardcopy court records is quite debatable. First, in some judicial instances, particularly in the appellate courts, the judicial process does not necessarily involve keeping court records. Certain procedural actions (such as statements and motions of the parties involved and the outcomes of their consideration) are contained within the case materials or simply

[40] *See* Para. 16 of Resolution of the Plenum of the Supreme Arbitrazh Court of the Russian Federation "On certain issues of the application of the Arbitrazh Procedure Code of the Russian Federation as amended by Federal Law 'On amendments to the Arbitrazh Procedure Code of the Russian Federation' No. 228-FZ dated 27 July 2010" No. 12 dated 17 February 2011. (In Russ.).

[41] Part 6 Art. 155 APC RF. (In Russ.).

must be reflected in the judicial acts.[42] At the same time, considering an appeal by regional cassation arbitrazh courts without keeping records of a court session is not deemed by the Supreme Court of the Russian Federation as a procedural defect, as the regional court can reflect all legally significant actions in its judicial act.

In practice, there are cases where the regional arbitrazh court suspends the consideration of an appeal until the entry into force of a court decision on a related dispute or for other reasons, i.e., postponement of a court hearing, and so on. However, such actions are not reflected in the court records (as no records are kept), but this does not deprive the judicial process of legal force.

Second, in some cases, there are no court records keeping at all. Thus, there is no audio recording or written records if a case is examined in simplified proceedings without summoning the parties,[43] as well as during a court session where none of the participants appears.[44]

In this article, we do not propose that the practice of keeping a court records be abandoned completely. Instead, we suggest that keeping records should be exclusively in electronic format, namely in the form of an audio recording, for instance, by utilizing the Court Session Secretary workstation or activating it automatically on the judge's hearing day through keyword recognition (such as announcing the case number at the beginning of the session).

Overall, this proposal implies some reassessment of the necessity of having a court session secretary or a deputy performing their duties. Digital recording of a court session encompasses all the elements of record keeping. The lack of expediency in having a court session secretary is particularly evident during online sessions (web conferences) and video conferencing. Thus, pursuant to Part 5 Art. 153.2 APC RF, the physical medium of the video records (video recording) of a court session, obtained through the use of a web conferencing system, is appended to the case materials.

[42] *See* Para. 16 of Resolution of the Plenum of the Supreme Arbitrazh Court of the Russian Federation "On certain issues related to the implementation of the Arbitrazh Procedure Code of the Russian Federation" No. 11 dated 9 December 2002. (In Russ.).

[43] Part 6 Art. 228 APC RF. (In Russ.).

[44] *See* Subpara. 4 Para. 16 of Resolution of the Plenum of the Supreme Arbitrazh Court of the Russian Federation No. 12 dated 17 February 2011. (In Russ.).

In Israel, as part of the judicial process digitization, courtrooms utilize "voice-to-text" programs that, basically, make it possible to automatically keep a transcript of court proceedings in an electronic format.[45] In fact, such technologies eliminate the practice of "records objections" in the judicial proceedings.

It is also proposed to ensure automatic uploading of the audio recording of the court session to the KAD.Arbitr system, allowing the parties to download and listen to the session recording (without additionally applying to the court) using the access code to the case file provided by the court, similarly to the provision of access codes to case materials in an electronic form for cases considered under simplified proceedings according to Part 2 Art. 228 APC RF. Abroad, particularly in Azerbaijan, during the consideration of commercial disputes by a court, as well as in courts where the Electronic Court system is implemented, continuous video and audio recording is maintained, which is subsequently attached to the case materials (on a tangible medium) and can be accessed by the parties.[46]

Certainly, a separate issue is the need for powerful DATA centers capable of storing a colossal amount of information in an electronic form. However, in the context of digital technology development, including data compression and archiving, this is only a matter of time.

III.2. Court Session Recess

The Supreme Court of the Russian Federation recently clarified the court's right to repeatedly declare a recess during a court session, each of which cannot exceed five days.[47] In this case, individuals participating in the case and present in the courtroom before the recess is announced are considered duly informed about the time and place of the court

[45] *See* Welcoming Remarks from the Director of the Courts at the 64th Annual Meeting of the International Association of Judges. Available at: https://www.gov.il/en/departments/news/judjespeech18092022 (In Russ.). [Accessed 15.06.2024].

[46] Art. 272 of the Civil Procedure Code of the Republic of Azerbaijan.

[47] *See* Art. 163 APC RF, Para. 46 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On the application of the Arbitrazh Procedure Code of the Russian Federation in the examination of cases by the courts of first instance" No. 46 dated 23 December 2021. (In Russ.).

session[48] and their absence from the court session after the recess does not prevent its continuation.[49]

Currently, the Court Session Secretary information system provides for a prompt posting of information about the recess announced by the court on the KAD.Arbitr portal in a separate section.[50] At the same time, the implementation of electronic case management, including an electronic form about trial participants, would allow for additional automatic notification via electronic mail to the legal entity's address, SMS notification, or email about the matter under consideration, with a corresponding entry made in the electronic case file. This proposal would also help avoid procedural errors, for example, by relying on the information provided in the electronic notification in the event of miscommunication of the date or time of the recess by the judge or failure to upload data to KAD.Arbitr in a timely manner.

IV. Judicial Acts

IV.1. "Smart Decisions" and Court Orders

Testing the technological capabilities of applying weak artificial intelligence in court for the consideration of "estimated claims" demonstrates the high potential of this area for the digitalization of the domestic judiciary (Momotov, 2021, pp. 188–191). The foundation of the future "online justice" will rely on digital technology of preparing draft judicial acts based on case materials.

To a known extent, the implementation of this direction will be facilitated by the proposed *Concept of Machine-Readable Law*[51] and

[48] Subpara. 3 Para. 13 of Resolution of the Plenum of the Supreme Court of the Russian Federation No. 99 dated 25 December 2013. (In Russ.).

[49] Para. 5 Art. 163 APC RF; as well as Ruling of Supreme Court of the Russian Federation No. BAC-5371/10 dated 13 May 2010. Available at: https://ras.arbitr.ru/ (In Russ.). [Accessed 15.06.2024].

[50] KAD.Arbitr portal. E-justice system. Recess. Available at: https://recess.arbitr.ru/ (In Russ.). [Accessed 15.06.2024].

[51] *See* Concept of Machine-Readable Law. Approved by the Government Commission on Digital Development, the Use of Information Technology to Improve the Quality of Life and Business Environment, Protocol No. 31 dated 15 September 2021. Available at: https://www.economy.gov.ru/material/file/792d50ea6a6f3a9c75f95494c253ab99/31_15092021.pdf (In Russ.). [Accessed 15.05.2024].

Law Automation (proposed by the Skolkovo Foundation),[52] under which mathematical algorithms will be able to analyze legal norms expressed in a formal language (in the form of computer code), based on which machine decisions will be made — the terms of contracts, draft judicial acts, draft laws, etc. will be formulated. The idea is not to completely replace *the norms written in natural language with machine-readable norms*, but rather to introduce them as a "logical control formula" to prevent legal errors made by government bodies in their law enforcement practices. In a number of foreign countries, such as Kazakhstan, automated systems are being developed to verify the legality and correctness of judicial acts and procedures in criminal proceedings (Information and Analytical System of the Court and Prosecutor's Office "Zandylyk."[53]

On a legislative level, there is a proposal to permit using the technologies of smart decision-making and court orders in the activities of Russian arbitrazh courts, because currently, the traditional concept of dispensing justice solely by human judges has been in place.[54]

In China, each judge's workstation is integrated with a "smart court" system, which serves as an assistant to the human judge, helping to verify decisions against legal norms and generate drafts of judicial acts. However, the final decision is made by the judge themselves.[55] What seems important is the technological capability to identify deviations of a judge's actions from the rules established by legislation, which may in certain cases require judges to provide explanations for such deviations (the discrepancies between the judge's actions and the machine's decision) which, as a result, excludes "human errors."

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[52] Skolkovo. Law Automation. Draft Concept. Available at: https://sk.ru/legal/automation-of-law/ (In Russ.). [Accessed 15.05.2024].

[53] The Supreme Court presented the project of the Court and Prosecution Office information system "Zandylyk." The Supreme Court of the Republic of Kazakhstan [official website]. News. Available at: https://sud.gov.kz/rus/news/v-verhovnom-sude-prezentovan-proekt-informacionno-analiticheskoy-sistemy-suda-i-prokuratury (In Russ.). [Accessed 15.05.2024].

[54] *See* Part 3 Art. 167 APC RF and Para. 1 and 3 Art. 1 of Law of the Russian Federation "On the status of judges in the Russian Federation" No. 3132-1 dated 26 June 1992. (In Russ.).

[55] Pleasance, C. China uses AI to "improve" courts — with computers "correcting perceived human errors in a verdict" and JUDGES forced to submit a written explanation to the MACHINE if they disagree. MailOnline.

IV.2. Electronic Signing of Court Decisions (Electronic Judicial Acts)

The use of a qualified electronic digital signature to sign a judicial act has relieved the court of the obligation to provide it to the parties in paper form,[56] and such a decision may only be provided to the party in the form of a copy upon the party's request.[57] However, the issuance of a judicial act in the form of an electronic document did not exempt the court from the traditional signing of the operative part of the court decision[58] (Laptev, 2022, pp. 39–46) and its full text[59] on paper, followed by its attachment to the case materials.

Thus, the materials of the arbitrazh case include *two originals*:

— a judicial act signed as an electronic document (in the digital space) (Solovyanenko, 2017, pp. 162–175);

— a judicial act in hardcopy signed by the judge personally (on a tangible medium).

It is assumed that both originals are identical, as the judicial act is signed by the judge personally after being signed electronically, and then printed on paper. Furthermore, we must consider that according to Art. 6 of Federal Law "On electronic signature" No. 63-FZ dated 6 April 2011, an electronic document signed with a qualified electronic signature is equated to a document signed personally by a judge. In the context of having two legally equivalent documents but in different forms, "double" work becomes unnecessary. Legislation does not clarify cases where the texts of electronic and paper court decisions differ in practice, and which one would take precedence in such situations. For example, when after reviewing and signing a judicial act with an electronic signature, the judge accidentally presses a key on the keyboard and the paper copy is signed with an error.

We consider it possible to reconsider the provisions of procedural legislation that allow higher courts (appellate and cassation courts) to overturn the decisions of lower courts on unconditional grounds specified in Para. 5 Part 4 Art. 270 and Para. 5 Part 4 Art. 288 APC RF.

[56] Part 1 Art. 177 APC RF. (In Russ.).

[57] Para. 3 Part 1 Art. 177 APC RF. (In Russ.).

[58] Para. 2 Part 3 Art. 176 APC RF. (In Russ.).

[59] Part 5 Art. 169 APC RF. (In Russ.).

The issue concerns cases where a judge does not sign a judicial act. Thus, it is proposed to supplement the aforementioned provisions by stating that unconditional reversal of a judicial act is only possible if there is no judicial act executed in the form of an electronic document, because when a judge signs a document with a qualified electronic signature, the document is considered valid and does not have any legal defects. By analogy, the rule regarding the recognition of an application for issuing a court order signed with a qualified electronic signature as equivalent to a document with a handwritten signature can be applied.[60]

V. Execution of a Judicial Act

For the past decade, legal scholars have been actively discussing the necessity of introducing digital execution writs, as this aspect of judicial proceedings can undoubtedly be optimized through the application of digital technologies (Andreev, Laptev and Chucha, 2020, pp. 24–25; Kirsanova, 2021, pp. 24–29). This provision was reflected in the amendment of Art. 319 APC RF that introduced the option of issuing (sending) an execution writ by the court for enforcement in the form of an electronic document signed by the judge with an enhanced qualified electronic signature.[61]

The established practice of signing judicial orders with an electronic signature and sending them through the KAD.Arbitr system can be applied by analogy when issuing execution writs.

In most cases, writs of execution in cases related to the recovery of monetary funds are issued solely upon the motion of the creditor. An exception includes cases where the court awards monetary funds to be collected as state revenue, in which case a writ of execution is sent by the arbitrazh court to the tax authority or another authorized government body at the debtor's address, that is, without the creditor's motion.[62]

[60] Subpara. 4 of Para. 18 of Resolution of the Plenum of the Supreme Court of the Russian Federation "On certain issues of the application by courts of the provisions of the Civil Procedure Code of the Russian Federation and the Arbitrazh Procedure Code of the Russian Federation on writ proceedings" No. 62 dated 27 December 2016. (In Russ.).

[61] Federal Law "On amending certain legislative acts of the Russian Federation" No. 41-FZ dated 8 March 2015. (In Russ.).

[62] Part 3 Art. 319 APC RF. (In Russ.).

The procedural legislation regulates the right of the claimant or applicant to petition for the issuance of a writ of execution for enforcement to the relevant department of the Federal Bailiffs Service of Russia.[63]

In arbitrazh courts, upon the issuance of writs of execution, a separate record is kept:

— of blank forms in the Register of Writ of Execution Forms, where, among other things, a note is made of their loss (Paras 17.7, 17.16, 17.18, and 42.10, and Appendix No. 25 to the Instructions for Case Management in Arbitrazh Courts);

— of dispatches (including postal identifiers) in the Register of Issued (Sent) Writs of Execution for Enforcement by the Judicial Panel (Para. 17.7, Appendix No. 26 to the Instructions for Case Management in Arbitrazh Courts);

— official seals affixed (Para. 17.13, Appendix No. 52 to the Instructions for Case Management in Arbitrazh Courts);

— in the electronic centralized register (for example, an electronic log of writs of execution is maintained in the Judicial Arbitrazh Case Management software program; registers of form transfers);

— individually at the judicial department (maintained by the judge in a Word format, for example, at the Moscow Arbitrazh Court, each judge's judicial department compiles a document titled "Register of Writ of Execution Forms" in the form approved by Order of the Arbitrazh Court No. 25-k-3 dated 10 October 2000).

Thus, by performing one legally significant action, namely issuing a writ of execution, multiple electronic and written records are maintained simultaneously. We propose amending the Instructions for Case Management in Arbitrazh Courts in terms of establishing a unified electronic register containing all the above information. Furthermore, it is proposed to automate the recording of information about the writ of execution in the electronic register following the modification of the draft writ of execution by the judge's office.

In the near future, the digitalization of judicial case management will entail a complete abandonment of paper writs of execution and a

[63] For example, pursuant to the general provision of Part 3 Art. 319 APC RF or in corporate disputes when recovering damages from a company director pursuant to Part 2 Art. 225.8 APC RF.

transition to electronic documents, namely digital writs of execution, which will also reduce government expenditures.[64]

Furthermore, we consider it necessary to integrate the judicial software complex with executive authorities, the prosecutor's office, and other organizations. Similar integrated systems in foreign legal systems demonstrate effectiveness when operating within a unified centralized electronic network, as seen in Turkey with the *National Judiciary Informatics System*, UYAP (Tuzcu Ersin, Kurar and Necipoglu, 2021).

VI. Conclusion

The proposed paths for the development of digital judicial proceedings should be implemented gradually as information technologies evolve and their regulatory framework is developed. These proposals will require legal experts to thoroughly address the legal regime of personal data, as access to them and their processing will undergo significant changes in light of the fundamental principles of arbitrazh proceedings regarding transparency and openness of the judicial process.

The digital technologies discussed in this article require guarantees to eliminate the digital divide. Participants in the trial acquire the opportunity to exercise procedural rights equally throughout the country.

The development of digital justice will increase the speed and enhance the quality of judicial proceedings, reduce expenses, and other costs borne by the state associated with judicial litigation. The implementation of the proposed elements of digitalization in arbitrazh proceedings will increase trust in the court system and foster a favorable investment climate in Russia.

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