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Применение в цивилистическом процессе электронных средств автоматизации в целях оптимизации судебных расходов

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Аннотация: В настоящей статье анализируются современные средства электронной автоматизации работы судов, в том числе путей направления судебной корреспонденции, извещения участников судебного процесса. Автором изучены современные государственные электронные ресурсы в сфере оказания государственных услуг, в том числе возможности получения поступающей корреспонденции в электронном виде с использованием Интернет-портала «Госуслуги». Исследованы аспекты оптимизации расходов государства на обеспечение судебного разбирательства и осуществления судьями функции по отправлению правосудия в цивилистическом процессе. Аргументирована необходимость дальнейшего применения электронных средств автоматизации в рамках электронного правосудия с целью оптимизации расходов государства на судопроизводство. К основным направлениям развития электронного правосудия можно отнести: повышение управляемости и улучшение организации работы судебной системы, информационную открытость и гласность судебных органов, ускорение документооборота, облегчение доступа к суду. Средства автоматизации, помимо облегчения самой процедуры подачи заявлений и участия в судебном процессе для пользователей, позволяют наиболее оптимально анализировать данные и составлять статистические отчеты в автоматическом режиме. Целью автоматизации процесса является, в том числе, обеспечение открытости и прозрачности правосудия, создание необходимых условий для осуществления правосудия, информатизация судебной системы, внедрение современных информационных технологий в деятельность судов. Использование электронных средств автоматизации судопроизводства сделает судебный процесс более понятным для граждан и представителей организаций, процедуру подачи процессуальных документов – более прозрачной и тем самым будет способствовать укреплению авторитета судебной власти в обществе.
Ключевые слова: электронное правосудие, информатизация судебной системы, автоматизация цивилистического процесса, оптимизация расходов на электронное правосудие

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APPLICATION OF ELECTRONIC AUTOMATION TOOLS IN CIVIL PROCESS WITH THE PURPOSE OF LEGAL COSTS OPTIMIZATION

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Abstract: Modern electronic automation tools for courts, including the ways for court mail and notifying the participants of judicial trial, have been analyzed in this article. The author studied the modern state electronic resources in the field of public services, including the possibility to get the incoming mail in electronic form using Public Services Internet portal. The article investigates the aspects of state expenses optimization to ensure court examination and carrying out administration of justice in civil process by judges. The author argues the necessity for further application of electronic automation tools within the limits of electronic justice, with the purpose of state legal costs optimization. The main areas for the development of electronic justice include: improving the manageability and elevating the organization of the judicial system, information openness and publicity of the judiciary, speeding up the document flow, facilitating access to court. Means of automation, in addition to facilitating the very procedure for submitting applications and participation in litigation for users, allow analyzing data in the most optimal way and creating statistical reports in an automatic mode. The goal of the automation of the legal process is ensuring openness and transparency of justice, creating the necessary conditions for the administration of justice, informatization of the judicial system, and introduction of modern information technologies in the activities of the courts. The use of electronic means of judicial automation will make the judicial process more understandable for citizens and representatives of organizations, the procedure for filing procedural documents – more transparent and thereby contribute to strengthening the authority of the judiciary in the society.
Keywords: electronic justice, informatization of the judicial system, automation of the civil process, optimization of expenses for electronic justice

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Introduction

In the age of information technology, it became easy and familiar for us to perform many operations without leaving our home or office. Electronic services of the government in the subjects of the Russian Federation are developing, as well as electronic money flow services. Electronic justice is also developing [Zarubina, Novikova, 2017. P. 18].

The main areas for the development of electronic justice include: improving the manageability and elevating the organization of the judicial system, information openness and publicity of the judiciary, speeding up the document flow, facilitating access to court [Anosov, 2013. P. 239-241].

Informatization of courts

Informatization of courts in Russia is carried out in accordance with the Concept for Developing Informatization of General Jurisdiction Courts for 2013-2020 approved by the Decision of the Presidium of the Council of Judges of the Russian Federation on February 28, 2013 No. 328 and the Concept for Developing Informatization of Courts until 2020 (approved by the Decision of the Presidium of the Council of Judges of the Russian Federation on February 19, 2015 No. 439).

In Russia, for the first time, through the information and telecommunications network Internet (hereinafter the Internet), it was possible to file lawsuits and other procedural documents with arbitration courts through the electronic service "My Arbitrator". Since January 1, 2017, lawsuits and other procedural documents have become possible to file through the site of the arbitration court. The Order of the Judicial Department attached to the Supreme Court of the Russian Federation approved the procedure for submitting documents to the arbitration courts of the Russian Federation electronically, including in the form of an electronic document[1].

Since summer 2017, this possibility has been developed for courts of general jurisdiction. The filing of claims through the Internet is consistent with the principles of civil procedural law and meets the requirements of modern society, as part of the implementation of the electronic government program. The whole software package has been introduced into the judicial system of the Russian Federation, which makes it possible not only to track the stages of the proceedings, but also to file procedural documents in court via the Internet.

Optimization of the procedures and data analysis

Means of automation, in addition to facilitating the very procedure for submitting applications and participation in litigation for users, allow analyzing data in the most optimal way and creating statistical reports in an automatic mode. For example, in Moscow, the "Integrated Information System for Courts of General Jurisdiction" was created, and with the help of this system, Moscow courts prepared and submitted statistical reports for the first half of 2017 and spent one and a half time less than compared with the similar report for the year 2016[2].

At present, the legal nature of electronic justice is increasingly becoming the subject of consideration by researchers, and it is still new for the Russian legal system. We will consider the use of electronic automation tools for the optimization of court expenses in order to show the differences between the traditional method of conducting court proceedings and the administration of justice and a modern method, which uses electronic means of automation.

Optimization of court expenses seems to us a very promising direction of the state's activity as a component of the rational administration of the state budget. Optimization of expenses for legal proceedings was justified as a necessity by M. Kh. Wafin back in 1984. He pointed out the particular importance of optimizing judicial expenses for the state budget [Vafin, 1984. P. 130].

Court costs in the broadest sense represent the state's costs of administering justice, which is only partially covered by the participating parties and other interested sides [Vafin, 1984. P. 38].

At the same time, the state fee paid by the persons applying to the court does not completely cover the state's expenses for legal proceedings and covers only some part of them [Reshetnikova, Kurgannikova, 2008. P. 45]. Nevertheless, the collection of the state fee for the consideration of cases in the courts is intended not only to cover part of the state costs for legal proceedings, funding maintenance of the staff of judges and the court apparatus but also to reduce the flow of unfounded lawsuits.

The state's costs of legal proceedings consist of a set of target amounts intended to pay wages, pay for material and technical support, resource supply, court security, postal services, and other purposes.

Indeed, the costs of justice are high. According to Federal Law on December 12, 2017 No. 362-FZ "On the Federal Budget for 2018 and the Planning Period for 2019 and 2020"[3], the expences for financing the state judicial system of the Russian Federation in 2018 will be up to 162 billion rubles, and another 279 million rubles was allocated from the state budget for the implementation of the federal target program "Development of the Russian judicial system for 2013-2020". It provides for the need to implement measures for creation of mobile justice, electronic justice, introduction of software tools for analytical support of activities and scanning of all incoming court documents. In addition, formation of electronic files and

1 Order of the Judicial Department under the Supreme Court of the Russian Federation on December 28, 2016 No. 252 // SPS "ConsultantPlus"

2 The IT-system prepares reports for the Moscow courts in automatic mode. The information is taken from the site http://ejustice.cnews.ru (Date accessed: February 2, 2018).

3 Federal Law on December 5, 2017 No. 362-FZ "On the Federal Budget for 2018 and the Planning Period for 2019 and 2020" // SPS "ConsultantPlus"

an electronic archive of court cases will ensure access to justice for citizens, and qualitative and efficient work of courts.

At the same time, such parameters as the number of courts that enable the possibility of electronic interaction with the society using the system of electronic justice, as well as other factors that testify to the automation of judicial system activities, are used as an evaluation criterion[4].

Expenses of the state on the judicial system as a whole do not decrease with time but even increase for certain purposes. In that case, can we even talk about cost optimization in the civil process?

The answer to this question is based on the analysis of the judiciary tasks and the goals of automating the civil process, which determine the desired result. The main tasks of civil procedural law and arbitration procedural laws are the proper and timely consideration and solution of cases, ensuring the accessibility to justice and fair public trial within a reasonable time.

The goal of the automation of the legal process is ensuring openness and transparency of justice, creating the necessary conditions for the administration of justice, informatization of the judicial system, and introduction of modern information technologies in the activities of the courts. The main idea of automation of the civil process can be described as the desire of the state to provide citizens with access to justice, a real opportunity to apply to the court for the protection of violated or challenged rights and legitimate interests that can be used in different conditions – whether it's the high pace of life in the metropolis, which leaves no time for lengthy litigation, territorial remoteness from the judiciary, internal migration or other socially significant factors.

To realize this goal, without any doubt, it is necessary to use the considerable potential of modern information technologies, which allows us to leave bureaucracy in the past.

The advantages of the legal process automation

The fact is that "virtual" world causes much more interest than the real world. Sociological studies show that monthly Internet audience in October 2016 - March 2017 reached 87 million people aged from 12 up to 64 years, which was 71% of the total population of the country (as the report indicates, here and below the population of Russia in age 12 - 64 years). In a year, Russian Internet audience increased by 2%. At the same time, 66 million people, or 54% of the Russian population, use Internet at least once a month on mobile devices, while 20 million people – 16% of the country's population –only use it on mobile devices[5].

In different regions of Russia, the automation of the litigation process is carried out at different rates, but the general trend for informatization and automation of the courts – in consideration of cases, that is, the implementation of justice as the main function of the courts, along with the administration of the processes providing this function, hasn't changed.

In the Republic of Sakha (Yakutia), a sociological survey was conducted on the theme "The introduction of "electronic justice" in the arbitration courts of the Russian Federation". To the question "Which positive aspects of "electronic justice" do you see?" the respondents answered as follows: 87% noted the opportunity to obtain information about the process on the "portal", 43% indicated the possibility of interaction with the courts in electronic format, 13.5% chose "reduction of the consideration time by courts on economic disputes[6]".

State institutions, including the institution of the judiciary, must constantly adapt to the requests of users who are striving for the peak of scientific and technological progress. Therefore, we can talk about the practicability of introducing into the judicial system of the Russian Federation the products developed with the help of modern information technologies.

Reducing court expenses and waiting time

The full use of modern technologies that support the activities of electronic justice, will allow optimizing some categories of court expenses – for example, expenses for the postal service fees.

At present, work is actively being done in this direction, electronic integration between courts and various state services, for example, between the Federal Service of Court Bailiffs, and non-governmental organizations, like, FSUE Russian Post, is held.

Courts send a large number of correspondence – including subpoenas, copies of judicial acts, responses to inquiries, civil cases to other courts on jurisdiction; cases of administrative offenses – on jurisdiction, and also to return the materials – to the official who drafted the protocol on an administrative offense in cases specified by law, as well as judicial requests to state bodies and other organizations.

Priority use of paper correspondence and traditional postal service delay the consideration of the case and, in our opinion, is ineffective for exchanging legally significant information. Especially it concerns the correspondence of courts with other state bodies regarding the provision of documents by the latter at the request of the court. The use of electronic means of automation presupposes the use of electronic digital signatures for judges along with the availability of appropriate software, so that the judge can sign the court request and send it electronically. It is also expected to receive a response to this request in the

4 Decree of the Government of the Russian Federation on December 27, 2012 No. 1406 "On the Federal Target Program "Development of the Russian Judicial System for 2013-2020" // SPS "ConsultantPlus"

5 Research of JSC "MediaScope". Published on April 21, 2017 // http://mediascope.net/press/news/744498.

6 Research on the analysis and generalization of judicial practice, legislation, and statistics of the Arbitration Court of the Republic of Sakha (Yakutia). Published on March 28, 2013 // http://yakutsk.arbitr.ru/node/13833.

same electronic form. Another problem is receiving information from the State Budgetary Institution "MFC" about the registration of a citizen to the address, information about which is available to the court.

The Constitution of the Russian Federation guarantees everyone the consideration of his or her case by the court, in the jurisdiction to which it is attributed by law. The courts must ensure compliance with this constitutional principle, but often this information is problematic due to the impossibility of prompt access to requested information, which in turn leads to an increase in the period for the consideration of the case, which includes the period of time from the moment the application is received by the court until the decision on the given case is made.

In the case of absence of information on the registration of a citizen at the address relating to the territorial jurisdiction of the court, the duty of the court is to find out the actual address of registration of the citizen and to raise the issue of transferring the case to appropriate jurisdiction. The courts request this information in Moscow at the Center for Address and Reference Work of the Main Directorate of the Ministry of Internal Affairs of Russian Federation by sending written inquiries with postal correspondence. The answer to such a request, taking into account the time limit for sending, must wait for at least two weeks.

Providing courts and other state bodies with means for electronic communication, including secure communication channels to protect the transferred personal data, will significantly reduce the wait time for responses to such requests.

In addition, we believe that it is necessary to develop new mechanisms to notify participants of this process. It can be done, among other things, by using the Public Services Portal of the Russian Federation State Service, which was developed and implemented within the framework of the state target program "Electronic Russia" in 2009. The portal has a section of the State Post. Through this section, you can receive notifications from the government authorities.

According to the information on the Portal, the State Post can receive letters from the State Traffic Inspectorate and the Russian Post, as well as notifications from the Federal State Information System of pre-trial (extrajudicial), and at the present time only from the Federal Bailiff Service of Moscow and from the State Traffic Inspection of Moscow, Rostov and Moscow Regions[7]. The courts do not yet have the technical ability to send notifications and other judicial correspondence electronically; however, if this possibility is realized, first of all, the courts' expenses for postal services would be reduced.

In the long term, legal proceedings in time will completely abandon the use of information on paper. Firstly, this is due to the lower practicality of paper data carriers, their higher price. Secondly, access to such documents can be obtained only by applying directly to the court, which in turn is associated with certain time and material costs.

What do we see in the clerical offices of the courts of general jurisdiction, in the rooms for reading the cases? Persons who are sides or participants in the legal process, or their representatives, having received a civil case for reading, have to photograph it for further work with documents in a more comfortable place and at a convenient time. A very effective way to eliminate these shortcomings is a change in the rules of the procedure for filing procedural documents in court. In addition to filing documents on paper, it should also be possible to provide documents in electronic form.

Conclusion

However, it is necessary to understand that such significant reforms should be carried out only if all the systems providing electronic document circulation both between the court and all state authorities and between the court and the participants of the process are fully available. There is great potential in the development of the judiciary institution through the use of electronic means of automation, given that there are functional and technical components in place, along with timely training of judicial system staff, understandable and simple information for the users of these systems, citizens, and representatives of organizations available by posting appropriate instructions for general access.

We can state that modern information technologies make it possible to actively develop the institutions of the state and society. The most important task of the state is smooth integration of the information society system into the life of people, including the automation of the judicial system. The use of electronic means of judicial automation will make the judicial process more understandable for citizens and representatives of organizations, the procedure for filing procedural documents – more transparent and thereby contribute to strengthening the authority of the judiciary in the society.

7 Information from the Public Services Portal of the Russian Federation // https://www.gosuslugi.ru/new (Date accessed: January 17, 2013)

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