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## **Legal Analysis of Modern Problems of Using Digital Technologies in Law Enforcement Activities**

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### **Abstract**

The article presents the results of scientific, practical and legal analysis of modern problems of using digital technologies in law enforcement activities. Special attention is paid to substantiating the thesis that law enforcement, law enforcement, legal support, consulting and judicial activities conducted in digital format are already an established and widely used phenomenon; the main thing is to adapt the public perception of this fact, create the necessary conditions for information security in law enforcement activities as a significant direction of state policy in the field of protecting the rights, freedoms and legitimate interests of citizens and legal entities. The article substantiates the thesis that the introduction of electronic services can significantly modernize the judicial process at all its stages, without exception, to ensure the possibility of unhindered and less costly in financial and time terms to apply for protection of a violated or disputed right, as well as the safety of participants in court proceedings. It is alleged that, among other positive things, the filing of documents in electronic form, remote participation in the judicial process through the use of video conferencing or web conferencing, the use of other information-telecommunication network "Internet" automatic logging significantly reduce the burden of organizational and technical plan (personal reception of citizens and representatives of legal entities by the judges, the management of expectations of personal acceptance, especially in the context of the epidemic COVID-19, document control, maintaining court records, challenge and invitation of participants of the proceedings, etc.). It is pointed out that the use of information technologies in court proceedings facilitates the process of information exchange by courts with each other or with other law enforcement and regulatory authorities. At the same time, this application does not negate the importance of the human factor, since no technology, even the most advanced, can replace a judge who must evaluate evidence based on internal conviction, guided by law and conscience, and also pass a sentence that meets the requirements of legality, validity and justice. In order to ensure the security of the protected person under a pseudonym during his interrogation in court, a special mobile complex "Voice Changers" will be sufficiently used, which allows recording the testimony of the interrogated person in video conferencing mode. The result of the study was a set of conclusions and recommendations developed by the authors of the scientific and practical plan aimed at expanding the prospects for using digital technologies in judicial activities.

**Keywords:** electronic justice services, electronic document, digital technologies, information security, justice, judicial activity.

## Introduction

Global political and legal phenomena of our time, both on a global and domestic scale, are unthinkable without the active use of progressive and most significant scientific achievements, the central place among which is rightfully occupied by digital technologies. At the same time, it should be recognized that the demand for these technologies in the judicial system has been positioned as an indisputable fact for many years.

Introduction of electronic justice services as noted in the informational-analytical study "Information technologies in justice: State and prospects: Russia", conducted by the Center for the development of modern law, can significantly quicken the legal process, lighten the load on the court system, make the legal system more transparent, and above all, make it easier for citizens and businesses to access the legal system by lowering costs associated with the requirement for the parties' physical presence and/or legal representation (hereinafter referred to as "Information Technology") [1, p. 4]. It should also be acknowledged that the use of information technologies in legal proceedings (as well as in advocacy, notarial, and other legal activities) can ensure the provision of legal assistance and legal services in an expedited manner, play a positive role in improving citizens' legal literacy, and inform them not only about judicial, but also alternative ways to protect their rights. Comparative law is an independent science, the followers of this theory are of the opinion that if I accept that in every science, some unknowns are known, in this case, since in comparative law, it uses comparative tools to investigate and study the science of law, and in practice it is exploited in providing solutions for national and domestic problems. Therefore, first of all, it has a practical benefit and may lead to the discovery of some solutions for domestic legal unknowns. Second, by analyzing the results of such studies, it tries to lead to the promotion and development of the domestic legal system, so it can be concluded that the comparative law is actually an independent science before it is a method [2-4]. The second theory: It is the opinion of those who believe that comparative law is only a method of study, according to this opinion, comparative law only deals with the comparison of legal rules in different countries and systems. Therefore, it only has a descriptive aspect and does not discover or establish a new legal rule, therefore, comparative law does not lead to the discovery of the unknown and is merely a method or method of studying legal rules, so comparative law is essentially a method of study before it is a science [5-8].

## Methods

The research methodology is presented by the following methods: dialectics, comparison, generalization, historicism, analysis, synthesis, induction, deduction, and historicism. The field of law is one of the fields of human sciences, the purpose of which is to search for the rules that govern individuals, because they are members of society, and human society is studied only in order to discover the rules that provide order and peace. Therefore, the research methods used in this field cannot be very different from other fields of humanities.

## Results and Discussion

The Russian judicial system has formally acknowledged the need to increase the use of information technologies in the administration of justice.

The process of developing, putting into practice (including in the legal system), and transforming digital technologies and information systems that have an impact on how participants in the relevant legal relations realize their rights, freedoms, legitimate interests, and obligations is known as digitalization as a phenomenon and as a legal state [9-11]. The use of video conferencing to take part in a criminal trial is not only acceptable but also practical, consistent with the ideal legal regime's principles of openness, promptness, and verballity, portable, technically straightforward, and occasionally irreplaceable form. Completing the Code of Criminal Procedure with a provision granting a court the authority to determine whether to question an expert via videoconferencing systems and outlining the Supreme Court of the Russian Federation's legal stances on the legality of using web conferences in court proceedings are two improvements that should be made to criminal procedure legislation and law enforcement practice in matters related to information technologies. It seems appropriate to add Part 4 of Article 282 of the Code of Criminal Procedure of the Russian Federation with the following wording: "4. If necessary, the court hearing the criminal case may decide to use videoconferencing technology to interview the expert.

## Justice as a Phenomenon and As a System of Law Has Been Digitalized

A new and more complex type of social relations have emerged as a result of global scientific and technological advancement, and justice is no exception. At the same time, the reality of her economic, social, and political crises, as well as international and domestic armed conflicts and currently the COVID-19 pandemic, as one of the unfavorable circumstances, leads to the difficulty of access to justice, whose procedures [12-14] (inviting lawyers, conducting valuations and other studies at their own expense (when necessary), sending requests and receiving their supporting documentation, diverting from routine activities and work activities in conflict) give rise to the difficulty of access to justice. ) have risen in price. Expanding opportunities for information technology use by judges, court staff technically, and participants in the process is one of the most promising ways to ensure that everyone has

access to justice by right. The pandemic has inspired Russia to take proactive steps in this direction, and over the past two years, it has made significant progress toward the digitalization of justice. It is possible to say with a great deal of confidence that the Russian judicial system is distinguished by a high level of digitalization, significantly exceeding the indicators of most European states. In Russia, the process of digitalizing the legal system is happening at the same time as other public functions. In September 2021, Mikhail Mishustin, the prime minister, specifically approved expanded authority for the Ministry of Digital Development, Communications, and Mass Media. In addition to the implementation of functions for the provision of public services and state property management, it is planned to extend digitalization to state policy in the area of literary activity [3]. The phenomenon of digitalization and the state of the law can be described as a process of developing, putting into use, and perfecting digital technology and information systems, "influencing the transformation of the structure and contents dot. the parties to the pertinent relationships, as well as to enhance and automate the implementation of their legal and moral obligations" [4, p. 9].

### **Recognition by the Judicial Community of the Russian Federation of the Need to Expand the Use of Information Technologies in Justice**

In most nations on Earth, including Russia, the COVID-19 epidemic has significantly changed social structures and legal frameworks. The legislator adopted a number of significant additions to the existing regulatory legal acts in order to stop the spread of coronavirus and try to lessen its detrimental effects on the populace. Federal law establishes the obligation of any organization to plan and implement measures to improve sustainability of organizations and safeguard the livelihoods of workers in emergency situations (paragraph "b" of part 1 of article 14). The judicial authorities are subject to the same legal requirement in full. In order to guarantee the application of the Federal Law's provisions regarding the protection of the populace from emergencies, Decree No. Russian Federation President Dec. 28, 2004, Executive Order No. 294. Resolution No. 1, which was approved by the Presidium of the Supreme Court of the Russian Federation, was adopted in reference to the provisions of the aforementioned normative acts as well as other normative acts intended to regulate public health protection, and hold hearings on the cases using the videoconferencing system and (or) the system of web conference. The need to carry out justice under the circumstances of moving courts into quarantine led to the adoption of such a decision. The specified Resolution recommends that parties submit applications to the court in electronic form along with electronic images of their identification documents and documents attesting to their authority in order to participate in a court session via a web conference [16-18].

### **Organizational and Legal Aspects of Using Videoconferencing and Web Conferences in Criminal Proceedings**

In the relatively short time since they have been used in judicial activity in general and in criminal proceedings in particular, video conferencing and web-based conferences have shown their obvious advantages, which include:.

- financial savings from the use of material resources;
- lowering the cost of carrying out judicial and investigative actions;
- high effectiveness when used to protect victims, witnesses, and other participants in criminal proceedings;
- the ability to quickly obtain specific information (evidence) in real time without traveling to a distant location of its sources, which shortens the time needed for initial research and court proceedings
- excellent performance and efficacy of international cooperation in the area of criminal proceedings in the execution of requests for mutual legal assistance [8, p. 294];
- automation of court equipment functions [1, p. 5] (sending out requests, minutes, notifications, etc. );.
- Consequently, in a decision from 2009–11, In 2006, the "Golubev against the Russian Federation" case (bill of complaint No. 26260/2) The European Convention of Human Rights noted that although the physical presence of the accused in the courtroom is highly desirable, it is not a goal in and of itself because it serves a more significant function, which is to ensure a fair trial overall (paragraph 4). The conviction of V was taken into account by the

European Convention on Human Rights. V. Golubev did not object to the Supreme Court using video conferencing to consider his case even though he was not present at the meeting and it was decided that his case should be considered by the appellate court [10]. According to the European Convention on Human Rights, participating in a defendant's trial via video conferencing is equivalent to personally attending the proceedings; the trial is only unfair if participation is not guaranteed in any way. The decision made pursuant to Article 26 of the European Convention on Human Rights reflects this position. In the "Said-Akhmed Zubarev against Russia" case, filed in 2012 (bill of complaint No. 34654/04) [11]. The criminal procedure code of the Russian Federation allows for a wide variety of applications of videoconferencing at all stages of the criminal process, for instance, the use of video conferencing can be used to question the following parties: the victim and witness (part 2 of article 278.1), the defendant - in response to the court's decision regarding the change of venue of cases (part 6 of article 35 of the code of criminal procedure); specialist, as he is questioned in accordance with the guidelines established for the examination of the witness, outlining specialist rights and responsibilities, as specified in article 58.

It seems appropriate to add rules that establish the possibility of questioning when using video conferencing and an expert to the Russian Federation's Code of Criminal Procedure in order to ensure the consistency and unity of legal

regulation. Part 4 of Article 282 of the Russian Federation's Code of Criminal Procedure can be added to create this clause. Its wording is as follows: "4. If necessary, the court hearing the case may decide to use Videoconferencing technology to conduct the expert's deposition. ". In addition, it appears justified to adopt a specialized resolution of the Plenum of the Supreme Court of the Russian Federation on the use of information technologies in judicial activities, containing guidelines on their legality in judicial activities generally and in the administration of justice - in particular, along with video conferencing web conf. Therefore, using video conferencing to participate in a criminal trial is not only acceptable but also practical, consistent with the ideal legal regime's principles of transparency, immediacy, and verbatim, portable, technically straightforward, and occasionally irreplaceable form of this participation. When using videoconferencing, it is crucial from an organizational and legal standpoint that the equipment is at the right level; the confidentiality of information with the status of a legally protected secret is ensured through the use of IT technologies (in a normal process, this is ensured by hearing a case in closed mode); and, if necessary, the participants in the process are promptly informed of the features and purpose of using the technology.

The use of videoconferencing in the administration of justice is governed by procedural rules that need to be improved, according to representatives of the scientific community. Particularly, the authors of the group monograph "Electronic Justice" (edited by E. V. S. V and Burdina. Zuev) mention that daily videoconference deliberations on more than 1,500 cases take place in the Russian Federation. At the same time, many technological advancements that enable enhancing the speed and efficiency of the legal system must be regulated. The authors of this monograph support the viability of integrating face recognition technologies into videoconferencing, allowing the parties to participate in the proceedings not only from the court at their place of residence or stay but also, for example, from their place of employment or home [19-20].

### **Criminal Proceedings and Procedure for Using Electronic Documents**

An electronic document has significant advantages in comparison with a paper document: it is more compact; it is easy to store (it does not need a safe and archive in the generally accepted sense – a document storage room); it is mobile; it is accessible (for court employees) and at the same time economical; it is easy to design.

Procedural appeals (applications, complaints, representations) may be submitted to the court in accordance with the procedure and terms established by the Code of Criminal Procedure of the Russian Federation, in the form of an electronic document.

Currently, "any person applying to the court of the Russian Federation has the opportunity to send a procedural appeal and attached documents in electronic form through their personal account and receive a response in the same form on the merits of their appeal or a judicial act issued with their participation. Information about the movement of court cases and documents is posted on the Internet." [17, p. 6]

The updated procedure for submitting documents to the court does not create any difficulties in the process of criminal proceedings, since it allows for maximum identification of the user, as well as guarantees that "information was actually sent by the sender and was not changed during transmission" [17, p.1020].

Recognizing the importance of electronic systems in court proceedings in general and in justice in particular, we should not forget that even the most advanced systems based on the latest achievements of science and technology are not able to completely replace "live" human communication. In criminal proceedings, this aspect is most important when making procedural decisions. Thus, according to Part 1 of Article 171 of the Code of Criminal Procedure of the Russian Federation, if there is sufficient evidence that gives grounds for accusing a person of committing a crime, the investigator makes a decision to involve this person as an accused. To assess the factor of sufficiency of evidence in such a situation, you need knowledge in the field of law, professional experience of the investigator and, based on them, confidence in the correctness, and most importantly, the legality of the decision being made. The latter cannot be "calculated" by an electronic system based on information data (evidence) stored in its memory using a given algorithm.

The provisions of normative legal acts can be stored in the memory of an electronic machine, but conscience is not, since it is a phenomenon of individual consciousness, i.e., it is an intra-individual state [18, p. 4]. It is reasonable to assume that it is also impossible to create an algorithm for making a decision in a technical way when the program includes the requirement that no evidence has a pre-established force.

### **Ethical Aspects of the Use of Digital Technologies in Criminal Justice**

The use of artificial intelligence and the widespread adoption of information (digital) technologies in many facets of human life, including the administration of justice, have brought to light the need for universal moral and ethical standards and guiding principles for the application of this intelligence. The principles of openness, objectivity, and fairness ensure that data processing practices are understandable and accessible to the public, and allow for external audits by government agencies or independent experts. The "under user control" principle states that the judge should have the flexibility to depart from the court's rulings and data that were used to arrive at the final decision at any time [20].

## Conclusions

The use of digital technologies in criminal proceedings in general and criminal justice in particular represents a significant legal and social phenomenon that does not detract from the role of the human factor, but at the same time ensures accessibility, efficiency, and efficiency of law enforcement and judicial activities at the lowest cost.

Raising the technical equipment of investigative and judicial bodies to a higher level, as well as making necessary additions to the legislation when they are clarified by the legal positions of the Supreme Court of the Russian Federation, can be considered a promising direction for transforming and further modernizing the use of digital technologies in criminal proceedings.

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