

## CONFERENCE REVIEW NOTES

### E-JUSTICE AND INFORMATION TECHNOLOGIES IN CIVIL PROCEDURE\*

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The opening ceremony and the scientific discussion of legal issues at the Symposium took place in the Hall of the Board of Trustees of Kazan University on 29 September 2017. The participants and invited guests discussed the most urgent issues of civil procedural law in connection with information technologies, the introduction of robotics into the legal profession and its work processes, and the opportunities – and the associated challenges – afforded by artificial intelligence in the practice of law. The use of information technologies in the framework of civil procedure has given rise to spirited discussion, as legal technology and the increasing prevalence of e-justice has become an integral part of modern law practice and judicial administration. All of the participant’s speeches focused on issues of the exchange of information in electronic form between and among litigants. Symposium participants discussed not only the problems associated with e-justice, but also the benefits that it brings about in the routine work of lawyers, as well as “best practices” in using electronic technologies.

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\* Fourth Annual Symposium of the journal *Herald of Civil Procedure*, “2017 – E-justice and Information Technologies in Civil Procedure,” which took place in Kazan, Republic of Tatarstan, Russian Federation, on 29 September 2017.

The Symposium opened with greetings from Editor-in-Chief of the journal *Herald of Civil Procedure* Professor Damir Valeev. He emphasized that holding the Symposium on the premises of Kazan Federal University is not just a tradition of the last four years, but also a tribute to the time-honored traditions of Kazan Imperial University, which was one of the oldest classical universities in the territory of Russia. Moreover, Professor Valeev confirmed that information technologies have a huge impact on modern life, thus making it especially important to study their impact on the practice and administration of law.

The floor was then given to representatives from the judiciary. First, Marat Khairullin, Deputy Chair of the Supreme Court of the Republic of Tatarstan, addressed the Symposium. He underlined the importance of information technologies support in the court system and cited statistical data from the electronic system "Justice" in the Republic of Tatarstan. He also noted the need for widespread use of advanced technologies such as videoconferencing in court work. Judge Khairullin then briefly reviewed changes in legislation which increase the integration of information technologies in civil and arbitration procedure.

Next to address the Symposium was Arthur Shakaraev, a Judge of the Constitutional Court of the Republic of Tatarstan. He brought into focus the fact that the Symposium's chosen topic corresponds to transformations now taking place in public life, and also noted that information technologies increase the effectiveness of judicial protection of citizens and contribute to faster application processes when applying to state authorities. This has a favorable impact not only on the speed of processing appeals, but also on the quality of service and transparency.

Academic discussions followed the opening remarks.

## **1. Information Technologies in Civil Procedure in Russia**

The first paper presented was delivered by Vladimir Yarkov, Professor at Ural State Law University and Head of the Department of Civil Procedure. His paper "Blockchain and Notary: First Evaluation" focused on one of the most discussed, widely implemented and fast-growing technologies today. Professor Yarkov spoke on the technology of blockchain, explained its features and commented on the prospect of using it in complex transactions. From his study of this topic, he has come to the conclusion that blockchain technology ensures the transparency and indestructibility of information. At the same time, while it is practical as regards simple contracts, its possibilities are limited by its subjects, the presence of various encumbrances and the rights of third parties. Moreover, blockchain technology ensures the *technological* transparency of the transaction, but there is no verification of the legal reliability of the transaction in this system, and no legitimization by legal order. On top of that, there is no inspection of subject capacity, and of who is currently involved in the

transaction. Thus, the era of the notary service will continue still, for blockchain cannot fully replace it. Be that as it may, Professor Yarkov noted that we should clearly pay attention to modern technologies and make proper use of their potential.

Aleksander Bonner is one of the giants of civil procedural science in Russia and Professor in the Department of Civil and Administrative Proceedings at Kutafin Moscow State Law University. Professor Bonner gave a talk titled “Judicial Reform in Russia: One Step Forward, Two Steps Back,” in which he addressed the issues of administration of justice by referring to the experiences of foreign countries and the robot-judge project. He suggested that at least in the near future a robot will not be able to cope with the role of an arbitrator – only a human being will be able to administer justice fully, taking into account all factors. He further mentioned that despite the application of electronic technology, documents filed through the My Arbitrator system are still being printed out and that the traditional paper document file is still formed. Thus, we cannot talk about a complete informatization of civil procedure in Russia now. Professor Bonner compared this with the situation in Great Britain, where some courts, having a fully-featured electronic case file with access available for judges and the participants in litigation, may not have a paper file at all. He noted that Russia is only starting to use information technologies in its court system now but expressed his hope that the use of these technologies will increase over time. He also criticized current reforms of the judicial system, which, in his opinion, have not been completed yet, and pointed out that the Russian judicial system has an uncertain position today in terms of its future development prospects. Professor Bonner delivered a critical assessment on the creation of justice-of-the-peace courts and the problems that arose after the liquidation of the Supreme Arbitration Court of the Russian Federation.

Judge Alexey Kirillov of the Arbitration Court of the Republic of Tatarstan spoke on the procedural foundations of electronic justice and the strategy for the development of the information society of the Russian Federation for 2017–2030. He also introduced the basics of legislative regulation of justice and provided statistical data on the use of electronic justice in the Republic of Tatarstan.

Ruslan Khusnulin, a fellow worker in IT, Iron Neo Development Director and partner in the ABBYY Company, made a noteworthy contribution with his presentation titled “Introduction of the Continuous Scan System in the Work of the Courts.” He highlighted the fact that there exists today the possibility of creating a program that can optimize the work of the courts via the scanning of a large number of documents, so as to create documents in an established model (as a result of scanning the homogeneous documents using “nodal points”), containing and synthesizing all necessary information. Mr. Khusnulin also noted that the use of such a system can help form an electronic case file as well as a summons for participants in court proceedings.

Presentations continued with Lidia Terekhova, Professor and Head of the Department of Civil Procedure at Omsk State University, who shared her paper “Information

Technologies in the Practice of Arbitration Courts." Her remarks touched upon various aspects of the use of the My Arbitrator system, its merits, faults and certain abusive practices that arise in the process of its application, as well as the ways to optimize the work of information systems of law enforcement.

## 2. Foreign Experiences

Together with leading representatives from the Russian legal community, foreign scholars and lawyers took part in the Symposium.

Jaroslaw Turlukowski, Professor of Law and Administration at Warsaw University, Poland, presented his paper "Issues of Judicial Practice of Registration of Legal Entities via the Internet: A Tribute to European Fashion or a Real Need?" and described the experience of e-filing in Poland.

Vincent Teahan, partner in the law firm of Teahan & Constantino in New York City and graduate of Yale Law School delivered his paper "New York State Courts Electronic Filing." As a practicing lawyer in the area of decedent's estate law (succession law), he discussed the experience of electronic filing (e-filing) in the system of state courts of New York, with particular relevance given to the probate (succession) courts. Mr. Teahan expressed his views on the slow introduction of electronic technologies in legal proceedings. The experience in New York shows that there is still an incomplete transition to the filing examination of court documents solely in electronic form, at least in the field of succession law. In a number of cases, the judge is required to familiarize him-/herself with the physical original of certain documents, even if copies were filed electronically. Mr. Teahan noted that the state of New York has invested a great deal of money in attempting to integrate information technologies into the work of its courts, but that the lack of a truly unified court system makes progress in this area quite slow.

Wing Winky So, Visiting Lecturer, and Ph.D. candidate at Oxford University, took the floor next. His talk on "Recent Developments in the Use of Technology in English and Hong Kong Civil and Commercial Courts" covered issues in respect of recent changes to the law. He noted the high level of development of information technologies in the two countries, which have led to improved standards of efficiency for the information systems in the operations of the courts.

Pablo Bravo-Hurtado, LL.M., Ph.D. and Lecturer at Maastricht University, the Netherlands, then presented his paper "Montesquieu's Utopia? On the Automatization of Civil Justice." During his study of this topic, he had wondered, "Could we replace judges with robots in the process of the administration of justice – that is to say, could we use artificial intelligence for this purpose?" In his prepared remarks, Dr. Bravo-Hurtado sought to expose the mistaken ideas behind a skeptical view on this question by presenting his ideas on the possibility of rejecting human capacities such as empathy in the administration of justice process, for the judge is clearly to

be guided by the law; yet, also, he or she takes into account the sufferings of the person, which indeed has a certain value in making decisions, something which a robot cannot do. Thus, the speaker discussed how society might not be willing to entrust the legal fate of a person to machines.

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