

Organizational and structural barriers to access to judicial acts of general jurisdiction

by Michael Pozdnyakov

A Russian federal law passed in late 2008 requires that courts openly disclose a significant portion of their judgments online. This event has special significance since not a single country with a long-standing tradition of justice could (has taken?) take such a decisive step. Even the case law mechanism does not entail such wide and unhampered access to judicial decisions. For twenty years Russia hesitantly trod towards the path of judicial reform. Even so, they did not manage to acquire the conservatism that would hamper the transition to open disclosure of judicial acts. By the time the discussion of the bill began, there had been no justifiable objections, and the advantages were obvious to everyone. The primary advantage of to the open disclosure of judicial acts is the possibility to make use of public opinion and all its potential. Secondly, there is the possibility of increased efficiency of the procedure of working out judicial practice. The law came into force on July 1, 2010. Two years since its passing it is now possible to review some of its consequences.

One of the problems encountered by the courts of general jurisdiction when executing the provisions of the Federal Law "On provision of access to information on activities of courts in the Russian Federation (22.12.2008, number 262-Ф3) concerning placement of judicial acts is the result of insufficiently developed infrastructure. This issue has been tackled at the level of 88 – 95 %. It is necessary to create centralized storages of judicial acts with full-fledged hardware and personnel provisions. Thus far, however, every court has its own web server. The situation may be resolved when the Information and Analytics Support Center of the state automated system "Pravosudie" ("justice") starts working.¹

The problem of deleting personal data has not been solved. As a result, we see the superfluous removal of information from the texts of judicial acts. In one third of the cases the number of a judicial act is deleted, in spite of the fact that this is not required by normative acts. The very status of texts of judicial acts is in question since these texts are not themselves official information. As a result, the effect of placing judicial acts online is lost.

Fulfillment of provisions of the Federal Law 262-Ф3 related to the placement of judicial acts on websites bears traces of the organizational specificities of the system of courts of general jurisdiction, and of relevant problems. In general, regional courts and courts of equal standing, to a larger extent, take into account changes in procedural rules. At the same time, district courts are more inert and tend to pattern their work on common practice while ignoring the frequent changes in procedural rules. They also tend to develop universal procedural rules and follow those instead. As a result, we see the excessive removal of important data from the texts of judicial acts.

¹ The Order of the Government of the Russian Federation (May 2, 2012, number 681-p) established the Federal state budget institution Information and Analytics Support Center "State Automated System "Pravosudie"" ("Justice"). The decree of the Judicial Council of the Russian Federation (May 24, 2012, number 295) specified the Statute and the candidature of its head.

At the same time, around one third of the regional courts form a group that, in spite of having access to more significant organizational and financial possibilities (as compared to district courts), are worse at fulfilling the provisions of the Law.

There are significant differences among the practices open disclosure online depending on procedural orders. Administrative cases are among those given the least attention. There is a growing lag of quality regarding the placement of administrative cases compared to cases of other procedural orders.

Although administrative legal proceedings are an important part of the justice system (in 2011, cases against 5.3 million individuals were examined within administrative proceedings), stabilization of these activities is extremely important. A decision in favor of creating administrative justice on the basis of courts of general jurisdiction would significantly improve the situation.