Use of modern means of communication as evidence in Russian courts

Irina Suspitcyna, Head of projects (arbitration and mediation), KIAP, Attorneys and Law

September 22nd, 2017
Minsk, Belarus
Main issues

• *Miranda law* in e-communication: can everything you type be used against you? (spoiler: no, actually)
• “To infinity and beyond!”: online communication used as evidence (even in the courts of law)
General tendencies

• In 2016: 17,388,176 cases (except for criminal cases) heard in Russian courts (courtesy of the Judicial Department at the Supreme Court of the Russian Federation)

• Among them emails were mentioned in 2,123 cases only
Main trends

- Email (97%)
- SMS (2%)
- Viber (0.3%)
- Whatsapp (0.5%)
- VK (0.2%)
Types of cases in which online evidence was relevant

- Civil law disputes (69%)
- Administrative law disputes (30.8%)
- Bankruptcy cases (0.2%)
Email communication (1/3)
Email communication (2/3)

• The most widespread electronic evidence

• Three criteria of admissibility:
  1. Common practice and/or prior arrangements
  2. Notarization
  3. Identification of the sender
Email communication (3/3)

Распределение судебных актов по регионам

[Map of Russia with regions labeled and numbers indicating quantities of judicial acts]
SMS (2/3)

- SMS communication: admitted by the courts much less frequently than emails
- Increasing attention to SMS: from violations of the Law on advertising to other cases
- Admissibility criteria: equal to emails
Распределение судебных актов по регионам
Social networks and messaging services (1/2)
Social networks and messaging services (2/2)

• Considered as admissible evidence by the courts
• Strict requirements of sender identification
• Criteria of admissibility: equal to e-mails
VKontakte

Распределение судебных актов по регионам
Распределение судебных актов по регионам
Распределение судебных актов по регионам
Conclusions and life hacks (1/2)
Conclusions and life hacks (2/2)

• The courts are conservative and rarely accept modern means of communication
• Adherence to formal requirements is crucial
• No clear admissibility criteria of e-mail communication (and other similar evidence) (everything depends on a particular judge)
Bonus: mind maps
Irina Suspitcyna
KIAP, Attorneys at Law
i.suspitcyna@kiaplaw.ru
www.kiaplaw.ru