

On the Role of Modern Information Technologies in Economic Litigation: Experience of EU Countries

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Summary

The judiciary is most inclined to modernize its activities through the Internet and related information technologies, which is due to its main function - to guarantee the protection of individual rights and freedoms in democracies. The judiciary is adapting to the new political, social, and economic conditions of society to best fulfill its function. The authors of the article conducted a comparative analysis of procedural rules and models of justice that currently exist in EU countries in the light of their introduction of e-justice, as well as their use of modern information technology in the administration of justice. The authors emphasize the fact that the positive experience of the introduction of information technology in commercial litigation by EU countries can be used in reforming the judicial system in Ukraine. The authors highlight the elements of electronic and mobile justice in the EU, which can be used in the reform of commercial justice in Ukraine. The authors argue that the active introduction of information systems in the judiciary of Ukraine will change the form of court proceedings provide access to justice for a wider range of citizens, and facilitate the conduct of cases, which will result in more efficient disputes. The authors substantiate the position that it is important for the judicial system of Ukraine to introduce integrated electronic systems using modern information technologies that unite not only the courts but also the prosecutor's office, investigative bodies, and the penitentiary system.

Keywords:

information technology, judicial system, commercial litigation, e-justice, justice.

1. Introduction

The issue of fair and efficient judicial proceedings in the context of Ukraine's European integration course is relevant, but not new; it has existed since our state gained independence. Judicial reform, which is currently underway in Ukraine, is necessary and inevitable, as a number of problematic issues arise that require immediate reconsideration and resolution. In particular, we are talking about the place of commercial courts in the system of general courts and the legal system of the state as a whole, improving the efficiency of economic justice in order to adequately protect the rights and interests of economic entities, as well as the introduction of modern information

technology in economic litigation, borrowing the successful experience of EU countries in the outlined area. Ukraine is a member of the Council of Europe, and therefore the right to judicial protection is reflected in Art. 55 of the Constitution of Ukraine, as well as in the procedural codes, in particular, the Civil Procedural Code of Ukraine, the Commercial Procedural Code of Ukraine, and the Code of Administrative Proceedings of Ukraine [1].

Nowadays most of the modern states introduce the "electronic justice", this process has its own structure and specifics, which is associated with the peculiarities of the national legal system and the level of technical development of a particular state. However, we can already say that as a result of the use of computers and information technology in the EU countries significantly reduced the workload of judges and achieved an optimal process of administration of justice.

The purpose of the article: to analyze the implemented systems of "electronic justice" and models of economic proceedings in the EU countries, which are carried out using information technology, to clarify the practical value of the achievements of European States in a particular area and the potential for their implementation when reforming the judicial system of Ukraine as a whole and the economic court procedure, including. The task of the article: to compare different models of implementation of electronic justice and economic proceedings in EU countries such as Germany, Belgium, Estonia, and other countries.

Scientific research in this area has been carried out by such domestic and foreign scientists as S. Fedushko, who studied the development of electronic services in the sphere of justice, as one of the key components of public administration reform [3]; H. Boscheinen-Duursma, whose works are devoted to a comparative analysis of electronic justice in Ukraine and Austria, in particular a description of the current situation, the strategy of development of electronic justice in Ukraine and Austria [1].

2. Materials and Methods

The formal-logical method of research was used to conduct the study, which allowed evaluating of the individual legal concepts and judgments that exist in the science of legal phenomena. The comparative method was used to clarify the models and features of electronic and mobile justice introduced in the EU countries. Reliability and theoretical and practical validity of the study are provided by the use of other techniques and methods, the choice of which is conditioned by the specific goals and objectives formulated in the article.

3. Results

The XXI century for mankind is a turning point in the development of information technology, it is associated with the globalization of society, that is, the transition of society from an industrial to an information society. Under the powerful influence of scientific and technological progress in all directions, new information technologies are introduced, which can provide unique opportunities for the development of the individual in particular, and for the rapid and effective development of the state as a whole. The development of information technology has not bypassed the judiciary.

At the present stage of civilization development, it is undoubtedly that the development of information technology brings certain changes in all spheres of modern life. Improvement of communication means, and the introduction of digital technology have affected the sphere of law, which is the main social regulator. More and more often information technology is used in the activities of internal affairs bodies, the prosecutor's office, notary public activities, and the courts are not left aside. In foreign countries, a concept such as electronic justice or e-justice has emerged.

E-justice is the most important aspect of e-democracy, and its main purpose is to increase the effectiveness of the judicial system and the quality of justice. Access to justice is an aspect of stakeholder access to participate in democratic institutions and processes. The use of information technology makes it possible to optimize the judicial process and, as a result, to increase the efficiency of justice.

The rules and models of proceedings applied in the Court of Justice of the EU combine both elements of national procedural courts of the EU member states and partly of procedural courts of general jurisdiction of the EU member states, so the European Court of Justice has some distinct features, which certainly allow to distinguish it from other international judicial institutions. Based on the analysis of the application of information technologies in the economic proceedings of the EU

countries, we can conclude that electronic justice reduces delays in its implementation, promotes the confidence of citizens in the justice system, and improves the result in general. Information technology can be used to improve access, timeliness, transparency, and accountability of the court system, thus helping the judiciary to deliver timely and efficient services to citizens.

The use of information technology can be considered one of the key elements to improving efficiency in the administration of justice. Equally importantly, the possibility of introducing information technology into economic proceedings is an impetus to the integration and automation of judicial procedures and practices, and the use of the Internet may provide an opportunity to open the judicial system to the public, economic entities, to provide both general and specific information about its activities, which will simultaneously increase the legitimacy of the judicial system itself.

The countries belonging to the European Union, both common and continental law systems, are actively introducing into their system the use of information technology to inform society in general, as well as citizens in particular, about the activities of the courts.

The availability of web services, the possibility to consult online, legislation and case law, the use of electronic registration, and the electronic exchange of legal documents are just some of the examples that are prompting courts around the world to rethink their current functions and activities.

The issue of e-justice in the EU has received a lot of attention. Thus, the EU Council has adopted multi-annual action plans in the field of European e-justice, and the development of the latter is taking place in the following main areas: access to justice information, access to courts and extrajudicial procedures in regulating cross-border legal relations, communication between the judicial authorities of the member states.

Among the introduced and planned measures concerning the e-justice in the EU countries are: further content of the European e-justice portal, creation in the Member States of electronic registers of bankruptcy information and combining them with each other with the possibility to search simultaneously in all the registers, the introduction of the European Case-Law Identifier, increased use of video conferencing means, creation of infrastructure for electronic document delivery between states.

Note that in addition to national projects of e-justice in Europe there are plans to implement supranational projects in this area. For example, a pilot project of the Network of Judicial Registers is already underway, within the framework of which eleven EU countries (Belgium, Czech Republic, France, Germany, Spain, Italy, Luxembourg, Netherlands, Poland, Slovakia, Great Britain, etc.) are already exchanging information on citizens'

criminal records in electronic form. It served as the basis for a computerized ECRIS system created to ensure the efficient exchange of information on criminal convictions between EU countries.

Also noteworthy is the EU project e-CODEX, a large-scale project designed to improve access to justice across borders for European citizens and businesses, containing information about laws and court procedures in other EU countries.

The development of e-justice in the EU countries is a requirement of the times, connected to the change of the way of life caused by the active development and the widespread introduction of information and communication technologies. As a result, it changes the form of judicial proceedings, provides greater access to justice for citizens, facilitates the handling of cases, and disputes can be resolved more efficiently.

As pointed out in the study, there are peculiarities in the application of e-justice in different countries. This depends on the state structure, the structure of the judicial system, the technical implementation of electronic justice, and the development of information technologies. E-justice is most effective in those countries, where during the transmission of electronic documents at all stages of the judicial process there is no "paper" mediation, that is, the existence of all judicial information on the case in digital form is possible. It should also be noted that considerable attention in EU countries is paid to the protection of information and security of stored and transmitted data.

However, despite the obvious advantages of introducing information technologies in the EU commercial litigation, for most countries providing access to judicial information, the problem of maintaining the confidentiality of information contained in court acts by litigants remains relevant. Its solution is seen in coding access to information, free access to which is prohibited, or in depersonalization of judicial acts freely accessible on the court's website.

4. Discussion

Law and economics provide guidance regarding the achievement of efficient assignment of rights and settlement of disputes [2].

The Council of Europe Recommendation notes that it is important to ensure that e-democracy is complementary to traditional democratic processes, rather than excluding them, to empower citizens to participate in political processes and facilitate the exercise of each of the rights guaranteed by Article 10 of the European Convention on Human Rights for the benefit of every individual and the democratic culture of every society. As part of e-government efforts investing in public service, e-justice

plays an important role in creating a fair, transparent, and efficient social environment [5].

Thus, the key characteristics of e-democracy in the European Union are citizens' participation in political life, transparency of public functions, legitimacy, and accountability of governance. The Council of Europe notes that e-democracy includes, among others, e-parliament, e-legislation, e-justice, e-mediation, e-environment, e-election, e-referendum, e-initiative, e-voting, e-consultation, e-petition, e-campaign, e-survey. E-participation, e-discussion, and e-forums are used to achieve this goal, which can also be applied to the implementation of e-justice. The European Ministers of Justice encourages every member state of the European Union to digitize their court's systems [6].

The judicial branch is not immune from pressures to modernize its operations via the Internet and related information technologies (IT) [4]. At the present stage, EU countries have extensive experience in the active implementation of information technology in court proceedings. In Germany, there is a system of electronic document management, which is implemented at all stages of the judicial process, from filing a lawsuit and presenting evidence to the court's decision. The development of electronic justice in Germany is influenced by a number of circumstances related to the peculiarities of the German legal system, namely:

- Germany is a member of the European Union, German e-justice should be seen in the context of European-wide measures to develop e-justice;
- there are six types of court in Germany. In addition to courts of general jurisdiction (ordentliche Gerichtsbarkeit), which hear civil and criminal cases, there are administrative, financial, social, and labor courts. There are also constitutional courts, which occupy a special position because of their task of enforcing the constitution;
- in each of the six types of courts proceedings are carried out according to their own rules set out in the following laws: the Civil Procedure Opinion, the Criminal Procedure Opinion, the Law on Administrative Courts, the Law on Financial Courts, the Law on Social Courts, the Law on Labor Courts, "On the Federal Constitutional Court" (proceedings in land constitutional courts are regulated by the laws of the Länder).

The official website of the Federal Court of Justice of the Federal Republic of Germany, which is the highest court of civil and criminal justice (ordinary jurisdiction), provides information on its position in the judicial system, structure, tasks, as well as the organization of its work, the staff of judges and of course the employees of the staff.

Transfer justice services in an online format will increase the efficiency of professionals in the sector legislation and optimize business processes, such as:

- reducing time workflow,
- reducing time spent on processes that can be automated,

- ranking tasks by importance,
- reduce the financial cost of servicing the public,
- promoting debureaucratization,
- business development promotion,
- increasing the level of trust in legal bodies,
- rapid response to public problems and their solutions,
- minimization of corruption risks [3].

Finland has legislation on electronic communications in the court and public sector. To date, two systems have been developed and are in operation: TUOMAS and SANTRA, with the former being used for numerous civil cases most relevant to citizens. The electronic file transfer system, called SANTRA, was developed to store and transmit data directly. These systems are used together and allow the plaintiff to file electronically and the court to send subpoenas through electronic services, schedule meetings in a calendar, automatically track the documents sent and generate an electronic case.

In Belgium, the Federal Council of Ministers approved an e-justice program for the use of information technology in the judicial system. In the early 2000s, the necessary legislative amendments were made, and the Phenix project, aimed at streamlining and speeding up the state's judicial system, was launched. In addition, the objectives of the project were also to ensure accessibility of justice by speeding up and simplifying the process of applying to the court, the possibility for a party to the process, and a lawyer to choose the most convenient way to apply to court. The principles of e-justice in Belgium: freedom of choice of electronic or non-electronic procedures in court proceedings, the equivalence of electronic and paper documents, electronic and factual addresses, the principle of unity of the electronic file (no difference between a copy and an original). And even though the Phenix project has been replaced by a number of separate applications and programs, changes have been made to the Belgian legislation, and these principles can be a reference point for the legal provision of national justice in Ukraine.

E-litigation is well developed in Estonia. Court proceedings can be initiated with the use of the e-trial information system (e-totemic - e-File proceedings information system). and misdemeanor proceedings (a limited number of documents related to existing court cases can be submitted). The system is available at any time, and the list of documents that can only be submitted over the Internet are payment orders for quick tracking of debts or maintenance claims.

Logging in is done with an ID card or mobile-ID (Mobile-ID). The court portal is also secure; when logging in, users will only be given access to their cases and data. Persons who are not involved in court proceedings do not have access to the court proceedings of others. Data is transmitted using the national X-Road information system,

which provides a secure Internet exchange of data between government information systems.

To file a lawsuit in court, you must fill out the forms provided. They vary depending on the type of proceeding and petition, but their format is the same: you need to provide general information about the case, data about the parties, any documents attached to the petition, and information about the payment of the state fee. A more detailed application form for an expedited payment order, it must be entered in the metadata form. Procedural documents are filed through the electronic file system with an electronic signature. If the case is submitted to the court, the electronic filing system automatically saves the opening date of the case proceedings. A person who has sent a document initiating proceedings or another procedural document to the court via the electronic filing system will be sent an automatic e-mail acknowledging receipt of the document, indicating the date and time it was received by the court. The state fee (if necessary) is paid either through a bank link in the electronic file system or outside the system through online banking or at a bank branch.

From the analysis of the European electronic justice models, it is possible to highlight the basic functions that the European electronic justice system should have: access to justice information; dematerialization of the judicial proceeding, that is the “electronic” process of justice administration; interconnection between judicial authorities, including the use of videoconferencing.

5. Conclusions

Thus, by electronic justice (e-justice) we understand the way of administration of justice, based on the use of modern information and communication technologies, ensuring the transparency, openness, and accessibility of judicial proceedings. The term “e-justice” is identified with the term “digital justice”, although these concepts are not identical: in the first case it is about the properties of the medium, and in the second - about the form of data existence.

Based on the study, we can conclude that the EU countries implement such elements of electronic and mobile justice, which can be used in reforming the economic justice in Ukraine, as:

- submission of documents to the court in electronic form, including through personal account services;
- notification and informing via SMS services, messengers, e-mail;
- the ability to track the consideration of the case through electronic services;
- receiving court acts in electronic form;
- online broadcasting of court hearings, etc.

We can also distinguish the following components of the legal mechanism of e-justice:

- 1) openness of information;
- 2) remote interaction;
- 3) accessible database of court decisions;
- 4) international recognition of court decisions;
- 5) e-document flow;
- 6) e-remote violation
- 7) review and filing of documents;
- 8) e-information;
- 9) e-consultation.

We can conclude that e-justice is implemented in the following directions:

- 1) educational;
- 2) professional provision of activities;
- 3) access and convenience of the judicial system for all citizens and organizations;
- 4) transparency of judicial activity;
- 5) accountability of judicial activity.

Promising for the judicial system of Ukraine are electronic systems that integrate not only courts but also prosecutors, investigative agencies, and the penitentiary system. Particular attention should be paid to the improvement of legislation, especially economic legislation, to implement electronic and mobile justice. The positive experience, problems, mistakes, and ways of their solution can and must be used while improving the system of electronic justice in Ukraine and while reforming the economic justice as its component.

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