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SOME APPROACHES TO ELECTRONIC COURT AS A COMPREHENSIVE WAY OF FAIR AND EFFECTIVE JUSTICE IN UKRAINE

Abstract. Purpose. The purpose of the article is to analyse some approaches of scholars to the electronic court as a comprehensive way of fair and effective justice in Ukraine. **Results.** The article analyses some approaches of scholars to the electronic court as a comprehensive way of fair and effective justice in Ukraine. The reform of the judiciary raises many issues related to electronic justice, which will greatly improve the performance of courts, simplify procedures for interaction with other state bodies and citizens, and lead to openness and transparency, will shorten hearings. The main objective of e-justice is to facilitate access for citizens in a more convenient and accessible way. It is underlined that the judiciary, on the way to e-justice, needs a fundamental overhaul of the entire system, which is a major challenge for a state as a legal system. The Council of Europe, in its recommendations to member states on the construction and restructuring of judicial systems and legal information in an economic manner, states that modern information technology has become an indispensable tool in administration of justice and that it thus contributes to the efficient government of the state, which is essential for the normal functioning of democracy. It is revealed that efforts to introduce electronic justice capabilities need to be directed towards improving the internal (case management system) and external (website) court information systems. Furthermore, these efforts should be aimed at increasing interaction with the information systems of other bodies in the field of justice. **Conclusions.** The introduction of the electronic court will enable to improve the entire judicial system, to expand the scope of activities not only within the system but also with other state bodies and will lead to openness and transparency and to the accessibility to citizens.

Key words: administrative legal framework, electronic court, efficiency, fairness, justice, courts.

1. Introduction

The reform of the judiciary raises many issues related to electronic justice, which will greatly enhance the work of courts, simplify procedures for interaction with other state bodies and citizens, and lead to openness and transparency, will shorten hearings. The main objective of e-justice is to facilitate access for citizens in a more convenient and accessible way. At the same time, issues of unauthorized access to judicial information, as is the case of law enforcement and other structures, arise which may result in the partial or total loss of such information, such as confidential or secret, and the problem will only deepen with the development of computer technology. The lack of adequate and stable funding prevents the deployment of high technology locally, especially in rural areas where the Internet is not available, and the human factor should be considered, since the courts personnel are mainly over 40 or older persons.

All of these factors require further research and a balanced approach to the issue.

The study is based on the works by scientists, such as: B. Averianov, O. Bandurka, O. Bezpalo, O. Bernaziuk, Yu. Bytiak, A. Bryntsev, M. Havryltsiv, V. Halunko, I. Holosnichenko, S. Kivalov, M. Kovaliv, V. Kolpakov, A. Komziuk, A. Kuzmenko, N. Kushakova-Kostytko, A. Kravtsov, N. Lohinova, R. Melnyk, I. Stakhura, A. Shcherbliuk, V. Felik, and others.

The purpose of the article is to analyse some approaches of scholars to the electronic court as a comprehensive way of fair and effective justice in Ukraine.

2. Organisation of courts' performance with regard to the introduction of electronic justice

In the exercise of powers, any state uses information technology. The judicial branch, which is one of the central powers of the state,

should not be excluded. Public policy on “electronic” document flow is aimed at implementing unified public policy on “electronic” document flow; protecting the rights and legitimate interests of “electronic” document flow actors; the legal regulatory framework for technology for processing, creating, transferring, receiving, storing, using and destroying “electronic” documents (Verkhovna Rada of Ukraine, 2003). Partially, we agree with N. Kushakova-Kostytska that the era of “electronic justice” in Ukraine is still a distant prospect, but the first steps in the creation of electronic proceedings have been taken, and we hope that electronic innovations will soon replace the paper-based routine and greatly facilitate citizens' access to court, on the one hand, and make domestic courts less corrupt and more efficient, on the other hand (Kushakova-Kostytska, 2013).

The UN Declaration “Building the Information Society: a global challenge in the new Millennium”, proclaims the principles of building the Information Society: 1) the rule of law, accompanied by a supportive, transparent, pro-competitive, technologically neutral and predictable policy and regulatory framework reflecting national realities, is essential for building a people-centred Information Society; 2) the usage and deployment of ICTs should seek to create benefits in all aspects of our daily life; 3) ICT applications are potentially important in government operations and services (United Nations, 2003). Furthermore, these principles are the basis of the Law of Ukraine “On Electronic Trust Services”, which states that state regulatory mechanism and administration in the sphere of electronic trust services and electronic identification is governed by the principles of: the rule of law in providing and using electronic trust services and electronic identification; an enabling and competitive environment for the development and operation of the sectors of trust services and electronic identification; free flow of electronic trust services in Ukraine, as well as the possibility of free provision of electronic trust services by providers of trust services located in other states activities thereof meet the requirements of the Law; the protection of the rights and legitimate interests of users of electronic trust services; accessibility and use of electronic trust services for people with disabilities; compliance of e-trust requirements and electronic identification with European and international standards; the interoperability and technological neutrality of national technical solutions, as well as non-discrimination; the protection of personal data processed in electronic trust services and electronic identification (Verkhovna Rada of Ukraine, 2017).

3. Specificities of electronic proceedings

The activities of the judiciary towards electronic justice requires a fundamental overhaul of the entire system, which is a major challenge for a state as a legal system. The Council of Europe, in its recommendations to member states on the construction and restructuring of judicial systems and legal information in an economic manner, states that modern information technology has become an indispensable tool in administration of justice and that it thus contributes to the efficient government of the state, which is essential for the normal functioning of democracy. European states reorganise and replace both court administration and institutional support systems and computerised legal information systems (Zemlytska, 2015). For example, in her study, N. Lohinova argues that e-justice aims at ensuring transparency and accessibility of justice, improving the quality of the work of the courts and significantly saving public funds. The realisation of the “Electronic Court” is one of the areas of increasing the efficiency of justice in Ukraine (Lohinova, 2014). According to A. Bryntsev, the areas of initiating the full electronic proceedings are: 1) a radical reorientation of the entire philosophy of state e-government from the needs of the state apparatus to towards the needs of citizens and business structures; 2) harmonisation of electronic technologies in e-government; 3) access identification (access to information with restricted access and other personalised services should not be linked to the public authority of the information or service provider, but to the person of the citizen or business entity directly concerned by the relevant information or service); 4) fundamental reform of judicial proceedings with a view to increasing the efficiency of the judicial system (the form of electronic proceedings should be the main one and allow the traditional paper form only in exceptional cases and only to a limited extent) (Bryntsev, 2016). We support this perspective and believe that this will solve problems, such as dependence on paperwork, dependence on postal services, about which many questions have been raised recently due to lack of funding, etc.

These issues are highlighted in the Strategy for the development of the judicial system in Ukraine for 2015–2020, which states that information technology is a key tool for improving access to justice, improving the efficiency of the courts and managing court cases. Efforts to introduce electronic justice capabilities need to be directed towards improving the internal (case management system) and external (website) court information systems. Moreover, these efforts should be aimed at increas-

ing interaction with the information systems of other bodies in the field of justice. An important step in this direction will be the reorganisation and consolidation of IP management structures by the outsourcing of most court information services through service contracts. The increased use of electronic justice will enable users to go to court, pay for services, participate in proceedings and receive all relevant documentation by electronic means. In turn, judges will be able to manage their resources effectively and increase their efficiency while balancing work and private life (Council of Judges of Ukraine, 2014).

With the aim of improvement, since 2018 the operation of subsystem “Electronic Court” has been started in test mode. As it is noted above, all documents should be processed through a single court database. The court will not receive and register the procedural documents sent to the court by the participants in proceedings, will not register and process the procedural documents sent by the participants in proceedings to the court if they are sent other than via electronic addresses (electronic cabinets) established in the Unified Judiciary Informational Telecommunication System. To that end, an instruction on the correct use of the system was developed. In addition, it was noted that under article 6, part 6, of the EPC of Ukraine, lawyers, notaries, judicial experts and state bodies, local self-government bodies, economic entities of the state and municipal sectors of the economy shall register their official e-mail addresses in the Unified Judiciary Informational Telecommunication System (UJITS). Other persons register their official e-mail addresses in the Unified Judiciary Information and Telecommunications System on

a voluntary basis (State Judicial Administration of Ukraine, 2018).

With regard to the concept of electronic court, scientists have no unified approach to this issue, in most cases they apply the concepts of “electronic court”, “electronic justice”. According to O. Bernaziuk, these concepts correlate as follows: “electronic justice” or “electronic proceedings” (used as equivalents) are a comprehensive concept, which means a special form of organisation of judicial power, which is digital-based and aimed at efficiency-enhancing, promptness, accessibility of justice, as well as automation of some internal and external administration processes to ensure the implementation of its primary function – administration of justice based on the rule of law, fairness, openness and transparency, accessibility, etc. Moreover, the researcher argues that the electronic court is an element of the electronic proceedings (justice), which ensures that the case is heard and resolved by means of appropriate information technology. Electronic proceedings (justice) are a unified, coherent and comprehensive information and telecommunication system integrated into the activities of the courts and other judicial bodies, which ensures that the judiciary performs its functions through the use of digital technology, consists of separate elements that can function either independently or in a system with others (Bernaziuk, 2019).

4. Conclusions

Therefore, the introduction of the electronic court will enable to improve the entire judicial system, to expand the scope of activities not only within the system but also with other state bodies and will lead to openness and transparency and to the accessibility to citizens.

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ДЕЯКІ ПІДХОДИ ДО ЕЛЕКТРОННОГО СУДУ ЯК КОМПЛЕКСНОГО СПОСОБУ ЗАБЕЗПЕЧЕННЯ СПРАВЕДЛИВОГО ТА ЕФЕКТИВНОГО ПРАВОСУДДЯ В УКРАЇНІ

Анотація. Мета. Мета дослідження полягає в тому, щоб проаналізувати деякі підходи науковців до електронного суду як комплексного способу забезпечення справедливого й ефективного правосуддя в Україні. **Результати.** У статті проаналізовано деякі підходи науковців до електронного суду як комплексного способу забезпечення справедливого та ефективного правосуддя в Україні. В умовах реформування судової влади виникає багато питань, пов'язаних з електронним правосуддям, що дасть змогу значно підвищити діяльність судів, спростити процедури взаємодії з іншими державними органами та громадянами, приведе до відкритості і прозорості, скоротить час розгляду питань. Основне завдання електронного правосуддя полягає у спрощенні процедур доступу для громадян, становленні правосуддя як більш зручного й доступного. Наголошено на тому, що діяльність судових органів на шляху до електронного правосуддя потребує докорінної перебудови всієї системи, яка є основним викликом у державі, визначає, чи бути їй правовою. Рада Європи у своїх рекомендаціях державам-членам щодо побудови та перебудови судових систем і правової інформації в економічний спосіб вказувала, що сучасні інформаційні технології стали незамінним засобом у сфері здійснення правосуддя, а тому вони сприяють ефективному управлінню державою, що необхідно для нормального функціонування демократії. З'ясовано, що зусилля щодо впровадження можливостей електронного правосуддя необхідно спрямувати на вдосконалення внутрішніх (систем управління судовими справами) і зовнішніх (сайтів) інформаційних систем судів. Також ці зусилля мають бути націлені на підвищення взаємодії з інформаційними системами інших органів у сфері юстиції. **Висновки.** Запровадження електронного суду дасть змогу вдосконалити всю суддівську систему, розширити сферу діяльності не тільки всередині системи, а й з іншими державними органами, приведе до відкритості та прозорості, доступності користування громадянами.

Ключові слова: адміністративно-правове забезпечення, електронний суд, ефективність, справедливість, правосуддя, суди.

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