

M. Chlipala: Legal Framework of e-Government and e-Justice in Slovakia

LEGAL FRAMEWORK OF E-GOVERNMENT AND E-JUSTICE IN THE CONDITIONS OF THE SLOVAK REPUBLIC

by

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INTRODUCTION AND GOVERNMENT STRATEGY [1]

E-government and e-justice as well represent a big challenge for our society. The European Union considers e-government implementation as its crucial task in its programs (afore eEurope,¹ currently Initiative i2010).²

In the conditions of the Slovak Republic the issue of the e-government implementation is elaborated in two Government documents:

1. Policy of the Information Society in the Slovak Republic;³ and
2. Strategy of the Information Society in the conditions of the Slovak Republic and the Action Plan.⁴

The issues related to the e-justice development are directly linked to the project of the development of public legal information system JASPI. The legal information system JASPI (LIS JASPI) is being built as an open non-commercial system with the aim to ensure an access to the integrated source of legal information within the Slovak Republic. The particular phases of the LIS JASPI development are recorded and documented in the reports on the performance of the provisions, on progress of work and proposals on

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¹ For more details see: http://europa.eu.int/information_society/eeurope/2005/index_en.htm

² For more details see: http://europa.eu.int/information_society/eeurope/i2010/index_en.htm

³ The Information Society Policy in the Slovak Republic was adopted by the Resolution No. 522 of the Government of the Slovak Republic on 13th June 2001

⁴ The Information Society Strategy in the conditions of the Slovak Republic and the Action Plan were adopted by the Resolution 43 of the Government of the Slovak Republic on 21st January 2004

the LIS JASPI implementation in the form of the resolutions of the Government of the Slovak Republic.⁵

Information Society is the essential prerequisite for the enhancement of education and subsequently labour productivity and employment as well, for the improvement of services and bigger innovation growth. In this context the state has been playing the key role when placing an offer for electronic services, which are one of the significant catalysts of information process. As to achieve the aforesaid goal it is necessary to put into effect all the provisions (including the provisions establishing the appropriate legal framework) and ensure the following:

1. information literacy of inhabitants (in wide extent of age and social groups of inhabitants);
2. broad Internet availability (which is conditioned by quality information and communication infrastructure for an affordably price); and
3. efficient electronization of public administration (the state shall implement modern, efficient and safe publicly provided electronic services in wide extent).

LEGAL FRAMEWORK FOR THE E-GOVERNMENT AND E-JUSTICE DEVELOPMENT [2]

The inevitable condition for the successful development of e-government is the establishment of the appropriate legal framework on the level of national legislation. Such framework in the Slovak Republic is currently based on the following acts and generally binding rules of law :

1. Act No. 275/2006 Coll. on Information Systems of the Public Administration (hereinafter referred to as the „AoISPA“);
2. Act No. 215/2004 Coll. on Protection of Classified Information;
3. Act No. 610/2003 Coll. on Electronic Communications;
4. Act No. 215/2002 Coll. on Electronic Signature;
5. Act No. 428/2002 Coll. on Protection of Personal Data (hereinafter referred to as the „AoPPD“);
6. Act No. 540/2001 Coll. on State Statistics;
7. Act No. 211/2000 Coll. on / on Free Access to Information;

⁵ Those are specifically the following Resolutions of the Government of the Slovak Republic: No. 527/1995, No 653/1996, No. 286/1998, No. 451/1998, No. 74/1999, No. 853/2000, No. 727/2001, No. 1154/2001, No. 137/2002, No. 528/2002, No. 529/2002, No. 11/2003 and No. 325/2006)

8. Decree of MTPT SR (Ministry of Transport, Posts and Telecommunications of the Slovak Republic) No. 1706/M-2006 of 14th July 2006 on Standards for Information Systems of the Public Administration (issued in the Coll. as the Notice of the MTPT SR No. 464/2006 Coll. on Issue of Order on Information Systems Standards of Public Administration).

GROUND FOR

E-GOVERNMENT IN THE SLOVAK REPUBLIC [3]

The significant social benefit from the e-government and e-justice development is the enhancement of *person's convenience with public services at state administration offices* with the possibility to settle such matters from one place (online public services), time saving and cut-down unnecessary red tape and paper work. Along with that, from the point of view of public administration, the conditions for public administration staff when making decisions will be improved and the possibility of various bureaucratic mistakes caused with the manual data processing will be diminished.

Fast e-government implementation gets at serious legal problem. It is practically necessary to elaborate new regulations supporting electronic delivery of public services. Paradoxically, it is just the occurrence of big amount of legal regulations preserving the current working procedures of public administration, which represents the ultimate holdout of development. The core of this problem solution can be in strong political will which must be reflected into the plan of legislative tasks and into allocation of necessary financial funds for such legislative support.

E-GOVERNMENT STATUS [3.1]

The significant asset to the e-government development is the new Act No. 275/2006 Coll. on *Information Systems of the Public Administration*. One of the benefits of this new act is the *implementation of information systems standards of the public administration*.

On 14th July 2006 Ministry of Transport, Post Offices and Telecommunications of the Slovak Republic (hereinafter referred to as the „MTPT SR“) passed in compliance with § 13 AoISPA Order on Information Systems Standards of the Public Administration. Information Systems Standards of the Public Administration define the environment in which a product of in-

formation technologies works and the conditions of its work. The purpose of the generating of these standards is to establish and maintain the interoperability between particular information systems.

The standards furthermore harmonize the visual aspects and structure of data contained in information systems and whereupon facilitate work with information systems of public administration. The MTPT SR published the Methodical Instructions for the Standards for Information Systems of the Public Administration and Methodical Instructions for the Data Standards Description (as a guidebook to the Order on Information Systems Standards of Public Administration), which explain and interpret the order provisions.

FIRST PHASE OF E-JUSTICE IN THE SLOVAK REPUBLIC [4]

In the course of the year 2006 the Ministry of Justice of the Slovak Republic launched the first phase of the project of publishing of court judgements on the Internet. A citizen can search relevant judgements of the district and regional courts in civil and criminal matters on the Internet via the LIS JASPI.⁶ As being expected, the judgements in administrative matters may be published by the end of 2006 and the judgements in criminal matters apparently by the end of 2007.

The updated database of judgements in civil and commercial matters contains approximately 20 000 judgements given from December 2005. No personal data of parties are listed in publicly published final judgements (so called anonymisation of personal data in accordance with the provisions of the AoPPD). The component part of the current stage of e-justice development in Slovakia is also publishing of settings of trial dates in district and regional courts on the Internet web page of the Ministry of Justice of the Slovak Republic.⁷

The sense of e-justice inheres in important aspects having far-reaching positive impact on the development of the whole society. The first out of anticipated positive influences is the *enhancement of legal confidence of participants in legal matters*. The possibility of public confrontation of judgements of differently located courts ruling in legally identical or similar cases should gradually lead to the unification of adjudication process on the low-

⁶ For more details see: <http://jaspiw.justice.gov.sk>

⁷ For more details see: <http://www.justice.gov.sk/sudy/zp.aspx>

est levels of courts. However, the results of such positive influence can be expected in a certain time lapse.

The second assumed positive asset is the *quality improvement of courts' performance*. Being aware that each particular judgement will be publicly available on-line, thus more responsible approach to the judgement giving can be assumed. The results of arbitration activity of courts in the form of final judgements (including their opinions) and resolutions shall therefore have a higher level of legal erudition.

The next expected asset of judgement publishing on the Internet is the *decrease of corruption rate in judicial system*. Due to the fact that all judgements of district and regional courts in the Slovak Republic are publicly available on the Internet and as the on-line system LIS JASPI enables searching for these judgements by the means of multiple-criteria search option (e.g. by the name of the judge, the case number, the court seat or by the key word as well), the risk of giving judgements influenced by bribery or motivated by clientelism is being significantly decreased.

Last, but not least important asset of judgement publishing on the Internet is also the fact that this database serves as the *important source of relevant information* not only for academic or professional practice, but also for the whole society. It provides a broad base mainly for the area of education, as to enable more demonstrative and more plastic interconnection of the theory and practical experience. University pedagogues can thus better demonstrate the relevant topic just being explained and discussed on some practical examples (not only on judicial acts which mostly refer only to the most principal legal issues). With the use of the database providing such an amount of judgements it is possible to point out not only the interesting legal solutions, but also to demonstrate the examples of improper applications of law. The students can consequently have the direct contact with real and practical law right at the moment of cognition of relevant legal theory.

BRIEF CHARACTERISTICS OF SELECTED PORTALS [5]

CENTRAL PORTAL OF

PUBLIC ADMINISTRATION (WWW.PORTAL.GOV.SK) [5.1]

The central portal of public administration provides the united and centralized access to information sources and public administration services on the

principle of so called *virtual centralization*. This centralization is not carried out by the transfer of services on the portal which represents only integration platform.

The content of central portal of public administration is arranged on the following principles:

1. subdivision of information content *by the type of entity* – citizens, enterprises, foreigners living in the Slovak Republic;
2. arranging information and services *by the searched target* – life situations, agenda, services.

PORTAL OF ELECTRONIC

PUBLIC PROCUREMENT (WWW.EVO.GOV.SK) [5.2]

Act No. 25/2006 Coll. on Public Procurement has established the essential legal framework for the implementation of *the system of electronic public procurement* which was put into effect on 1st January 2007. The central portal serves for placing the contracts in the process of public procurement. The benefits of electronic public procurement system are:

1. implementation of explicit rules for utilization of electronic communication means in public procurement;
2. utilization of electronic auctions for the rating of tender bids;
3. possibility to use the electronic procedure with the placing of contracts, so called „dynamic purchasing system“.

CADASTRAL PORTAL (WWW.KATASTERPORTAL.SK) [5.3]

The cadastral portal was established based on the Resolution of the Government of the Slovak Republic No. 540/2002 by the means of which the Government ordered to provide the data of the land register on the Internet. The main goals being achieved by the establishment of the cadastral portal are:

1. making proprietary and legal relations to real estates more transparent;
2. improvement the quality of database of the land register;
3. decreasing of land registers' workload when providing cadastral information;
4. eliminating of corruption environment on land registers.

The access to the cadastral portal is currently subject to the fee payment obligation and authorisation. Information obtained from this portal is only for informative purpose and it is not possible to be used in legal proceedings.

It is assumed that in the course of the year 2007 the fee payment obligation when obtaining information from the cadastral portal shall be cancelled.

INTEGRATED AUTOMATIZED SYSTEM OF LEGAL INFORMATION JASPI (JASPIW.JUSTICE.GOV.SK) [5.4]

LIS JASPI is on-line legal information system established as *an open non-commercial system having the aim to provide the access to the integrated source of legal information in the Slovak Republic*. Currently the LIS JASPI database has 4 basic modules:

1. *Legal Regulations* – contains legal regulations which have been issued in the Coll. since the year 1945 and amended and updated wording of legal acts, regulations and orders;
2. *Judicial Acts* – contains the judgements and opinions of the Supreme Court of the Slovak Republic from the year 1961, rulings and decisions of the Supreme Court of the Slovak Republic from the year 1993;
3. *Judgements* – contains the judgements of regional and districts courts (currently in the civil and commercial matters, the module with the judgements in criminal and administrative matters is being prepared);
4. *Authorised experts, interpreters and translators* – contains the data concerning the scope of activities and contact data of authorised and officially appointed experts, interpreters and translators.

COMMERCIAL AND SMALL BUSINESS REGISTER ON THE INTERNET (ORSR.SK / ZRSR.SK) [5.5]

The portals of public administration providing the services for the longest time period via the Internet are the Commercial Register and Small Business Register. They are public registers into which the data about entrepreneurs, stipulated by the law, are enlisted. A particular entrepreneur can be searched by the means of the multiple-criteria search option (e.g. entrepreneur's identification number (BIN), business name, seat of business/ registered office, surnames and first names of statutory persons). The databases of these registers are updated in regular intervals (14 days). Relatively long period between particular updates has a negative influence on up-to-dateness and on informative value of registers as well.

An extract from the electronic register is not absolutely identical (neither

from formal nor from content aspect) with an extracts from the register issued by the relevant registered court or Small Business Office. The extract obtained from the Internet is only for informative purpose and it is not possible to be used in legal proceedings.

CONCLUSION AND CHALLENGES [6]

As to maintain the already determined pace of e-government and e-justice development it is necessary to prepare, as soon as possible, the changes of those procedural legal regulations which are associated with the manual data processing. The aim of such efforts should be the gradual replacement of manually processed data by the electronic data system. The aforesaid process will demand changes of various intensity in many legal regulations.

One of the areas which must be solved preferentially is the entire electronic data exchange between the public and private sector and with this associated issues of use of electronic documents on legal purposes. The given questions can be in my opinion more efficiently solved by an individual legal regulation with the general force (e.g. by the *Act on Electronic Public Administration*) as to split up the legal form into existing procedural legal regulations.

The necessary measure concerning e-government development in the consequent phase will be the solution of the issues of the next basic registers linked up with the commercial / small business registers and cadastral register (e.g.. register of citizens, register of economic entities, register of vehicles), which represent the core of e-government. The information contained in those registers cannot be replaced by other source of data and are unique and special. Due to this reason it will be appropriate to adopt a legal enactment, e.g. in the form of a new *Act on Registers* which should solve the utilization, access and dealing with the data of registers on the part of public administration subjects within the e-government.

I am convinced that the ongoing trend of e-government and e-justice development in the Slovak Republic is appropriate and right. As a proof can be taken the interest of the European Union to support e-government development in the whole European Union in the form of announced support programs. In any case it is needed to intensify the work on the legislative framework for the development of quality e-government and e-justice with the final aim to build up a new type of social system, which can be significantly called e-democracy.