INTERNATIONAL TRENDS IN THE JUSTICE DIGITALIZATION DEVELOPMENT

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ABSTRACT: The authors substantiate the feasibility of introducing digital technology into the modern system of administration of justice. It is noted that the introduction of digital technologies will reduce the time for disposal of legal proceedings, create an independent, but at the same time transparent judicial system, improve the quality of decisions taken by the court and the level of public confidence in the state, and minimize government spending in this area. The international trends in the development of digital justice and the problems that slow down the transition to a digital form of justice are considered. The author substantiates the position on the obligation of the state in the digitalization of justice to ensure a balance between the interests of an individual and society, as well as the need for the phased introduction of digital technologies in order to minimize the risks that arise during the reform of established procedures.

Keywords: Digitalization, e-justice, personal data, artificial intelligence, video-conferencing, court.

INTRODUCTION

The use of information and communication technologies in all spheres of society is rapidly developing in the world. The judicial system is no exception and is actively

developing this area. The use of modern information technologies in judicial activity allows us not only to expand and facilitate access to information, but also to ensure the implementation of the constitutional right of citizens to access justice. It is also an integral part of the process of legal proceedings modernization, being one of the steps towards creating a "digital" justice. It should be noted that to date, significant changes have already occurred in this area due to the introduction of modern digital technologies. So at the end of 2018, the first act regulating the use of artificial intelligence in justice, "The European Ethical Charter on the Use of Artificial Intelligence in the Judiciary", was approved (https://www.coe.int). Through digitalization, governments are tasked with standardizing the interpretation of laws, minimizing cases of miscarriage of justice, and thereby increasing the efficiency of the administration of justice and the efficient use of justice. A modern democratic state is obliged to have an effective high-tech system of fast and transparent justice (Abishov et al, 2018; Laureano, et al, 2018)*.* In the work, various general scientific techniques and methods of logical cognition were used: analysis and synthesis, systemic, functional, and formal logical approaches. The formation of conclusions was facilitated by the use of the method of content analysis, formal legal and comparative legal methods (Tejeda & Dominguez, 2019)*.*

RESULTS

Singapore was the first country to develop and implement electronic justice systems. The experience of Singapore is now being studied by all countries that introduce digital technology in the judicial system. Reform of the judicial system in Singapore was as follows: in the beginning, the authorities created an e-justice system to work in the field of compliance with the traffic rules before moving on to larger issues related to civil and criminal cases. Thus, they were able to accumulate experience and take into account errors identified during the operation of a narrowly targeted system. Singapore then made a phased transition to a digital form for resolving cases. We started with the civil process and then, taking into account the experience gained, we went over to the criminal process. It is valuable that the transition was very smooth, and at the same time it was possible to go to court using traditional methods. Both methods (electronic and traditional) coexisted simultaneously. As a result, the introduction of electronic technology did not affect the effectiveness of trials. In Singapore, the electronic system for filing documents with the court has been operating since 1997. In 2000, the electronic system ousted the traditional form of filing documents and became mandatory in civil cases (Reshetnyak, 2012; Issaliyeva et al, 2018). As a result, there was a transition from the physical paradigm, where everything was on paper, to the digital paradigm, where everything from laws, consultations and up to the trial was supported by electronic technologies (Khalin & Chernova, 2018).

In different states, justice systems operate on the basis of well-established procedures carried out by the judicial system: legal advisers, jurists, prosecutors, and others. Digital justice information systems can help facilitate these tasks. Noteworthy in this aspect is the example of the "Electronic Court" system created in Azerbaijan. One of the tasks of this system intended for consideration of cases of (indisputable) writ proceedings is the consideration of the application on the day it is submitted. The result is a saving in process time and money from this system. Its capabilities are impressive: the system considers 300 applications submitted simultaneously and makes a decision

within 15 minutes. The system is supported by 4 judges who can replace 270 judges and more than 300 judicial officers (https://minjust.ru).

The Russian Federation is actively developing the super-service "Justice-online" within the framework of the existing system "State Automated System - Justice". It will provide for convenient remote filing of documents with the courts, and the opportunity to participate in online meetings with a biometric audio identification system for process participants. Over time, a fully digitized court session infrastructure will appear. These transformations will increase the attractiveness of Russian jurisdiction for foreign investors. Despite the various legal systems and the peculiarities of regional legislation, countries that create their own digital justice systems face common trends and problems in modernizing justice. Lack of proper attention to these areas significantly slows down the transition to a digital form of justice (Taubaye et al, 2018).

The first area that I would like to dwell on is the processing of personal data of users of the system. The processing of personal data is an activity carried out by the judicial authorities with personal data. It includes the collection, storage, systematization, destruction, extraction and transmission of data. All these data actions require impeccable confidentiality technology when processing personal data. This can be achieved by encrypting the documents submitted and providing them with a digital signature. On the issue of preserving personal data, we fully share the point of view represented by the Minister of the European Government M. Kuneva, who in 2009 noted that personal data is the new oil on the Internet and the new currency of the digital world. Legal protection of personal data does not always meet the requirements and possibilities of its use (Kuneva, 2009).

The digital justice system can only operate effectively if proper security is provided for both personal data of citizens and the security of all digital documents with protection against an unauthorized access. The participants in the process must be sure that the documents they send are stored securely and there is no danger of their change or distortion. A state that implements digital technology in the judicial system will need developed legislation to protect information stored in digital justice systems (Antonov, 2014; Ahmadi, et al, 2014). Personal data processed by a judiciary may be published in court orders or decisions. The publication of court decisions is a requirement of the constitutional principle of open justice and is a necessary means of supporting the rule of law. But is it always appropriate to divulge this information? We believe that the court should be able to extract personal data contained in the court decision, and establish restrictions on access to court materials. The task of the state is to ensure a balance between the interests of an individual and society, which requires a deep legal study of this issue.

Of course, the translation of paper workflow into digital one has huge advantages. Filing, inventorying and sorting out cases not only takes time and requires certain monetary costs, but can also be irretrievably lost in the event of natural disasters, which will have a tremendous impact on the effectiveness of justice. Creating electronic archives will minimize these risks. When creating digital cases, the problem of familiarizing the participants in the legal proceedings with the case materials will be solved, when all the procedural documents are on paper in a single copy, and there are many people familiar with the case. Lawyers and their clients have been studying a single copy for months, especially if case files are hundreds of volumes (Rosa, 2013). But any digital archive also

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has its vulnerability: unauthorized access, which can lead to the destruction, alteration or copying of digital archives.

The next direction which cannot be ignored because of its relevance and prevalence is the use of video conferencing which has firmly entered the judicial process as one of the main justice digitalization element. Online videoconference at a trial is the first step in ensuring access to justice for participants in the process, implementing the principles of openness, transparency and directness, a way to reduce the costs of their conduct, as well as a reliable tool to ensure the completeness and speed up the time of proceedings. Also, holding a videoconference is very useful and necessary for lawyers who are faced with the need to attend several court hearings on the same day. With the help of video conferencing, they will not have to postpone the hearing of their cases, as well as waste time moving from one court to another. The introduction of videoconferencing in courts will allow the use of online dispute resolution mechanisms, which is an effective way to offload the judicial system.

Among the problems that accompany the introduction of such an element of e-justice, such as video conferencing, it is possible to note the instability of digital connections that can fail. In some countries, there may be problems associated with the mismatch of time zones, and most importantly, this is the imperfection of the procedural legislation, which will not allow the efficient use of this technology. Another area that inevitably accompanies the implementation of digital justice and requires special attention of the state is the willingness of lawyers to work in the digitalization of justice. Digitalization introduces adjustments both in the field of training a lawyer and in the legal profession as a whole; it requires a change in the thinking of lawyers, since the way of interacting with the justice system will be changed. Digitalization requires the development of a new training program for lawyers who can work professionally with new digital resources and systems. Existing lawyers need permanent continuing education courses.

One cannot help but wonder about the fate of the legal profession. Will it be needed in the foreseeable future, or will a robot lawyer completely replace a human lawyer over time? Can we replace a lawyer, prosecutor, or judge with a neural network or program? Despite the rapid development of this technology, the answer to this question today and in the near future should be clearly negative. However, for most of the tasks that people now perform, it will still be possible to replace them with artificial intelligence. In general, neural networks and programs are not able to completely replace a person.

In a number of countries, such as China, France, the United States, the capabilities of neural networks and software are already being implemented and used. However, the capabilities of the programs are very modest; they serve only as a tool in the hands of a judge for analyzing documents (Nagornaya, 2019). It should be borne in mind that even individual elements introduced into the administration of justice system may have significant shortcomings. In October 2019, the Council of Europe (CE) Human Rights Commissioner, Dunia Mijatović, at a conference on digital technology in the administration of justice recalled that the developers of this software product influence the final results of the artificial intelligence system. They may have their own taste preferences or prejudices that will be integrated into the digital justice system, which may initially lead to discrimination in the justice system (Justice in Europe facing the challenges of digital technology).

Another important point that must be resolved during the digitalization of a judicial system is the determination of the legal status of artificial intelligence. Who is responsible in case of damage and compensation of damage - directly the system owner or user? Or maybe a developer? (Calo et al., 2016) The lack of a clearly defined legal status will not give artificial intelligence the ability to effectively carry out the tasks assigned to it. One cannot but take into account the factor of society's readiness to work in new digital conditions. Society should not only be aware of the benefits of digital justice, but also be able to access digital justice regardless of the level of computer literacy (Cano et al., 2015). Lack of access to the system will lead to the collapse of even a perfectly designed digital justice system. It is necessary to provide at the initial stage of digitalization for the use of both forms of the judicial system: digital and traditional. It is also necessary to lay down budgetary funds for the functioning of organizations that will file claims and other procedural documents for the poor. The solution to this problem requires the state to both allocate financial resources and amend the current legislation.

CONCLUSIONS

Summing up, it should be noted that the digitalization of justice is a logical development of the processes concerning informatization and computerization of the judicial system. The digitalization of justice should result in a full-fledged artificial intelligence system that will accompany and control the entire process of court consideration of cases, covering all participants in the trial. To date, a fully functioning system of artificial intelligence for litigation management has not been created. The maximum that innovators have achieved on behalf of the state is a system with individual elements of artificial intelligence, which receives tasks from a person and solves them. In our opinion, at the moment, the speed and depth of the integration of the artificial intelligence system in a judicial system is not important, the main thing is that in the process of creating and using digital technologies in justice, the state takes into account primarily the interests of society, gradually introducing digital technologies into the judicial system in order to minimize risks arising from the reform of established procedures.

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