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Introduction of Information Technologies as the Newest Concept of Optimization of Civil Proceedings

Tetyana Kaganovska

V.N. Karazin Kharkiv National University, Kharkiv, Ukraine. E-mail: t.kaganovskaya@karazin.ua

Anatolii Muzyka

National Academy of Legal Sciences of Ukraine, Kharkiv, Ukraine. E-mail: professor.muzyka@gmail.com

Andrii Hulyk

Lviv District Administrative Court, Lviv, Ukraine. E-mail: lawyers484@gmail.com

Hennadii Tymchenko

V.M. Koretsky Institute of State and Law of the NAS of Ukraine, Kyiv, Ukraine. E-mail: gena29-78@ukr.net

Hikmat Javadov

V.M. Koretsky Institute of State and Law of the NAS of Ukraine, Kyiv, Ukraine. E-mail: javadov@aze.in.ua

Oxana Grabovskaya

Taras Shevchenko National University of Kyiv, Kyiv, Ukraine. E-mail: grabovskaya_o@ukr.net

Abstract

The introduction of information technology in the structure of procedural legal relations contributes to the full implementation of the principles of procedural law and optimization of civil proceedings. The purpose of this study is to develop scientifically sound proposals and recommendations for the latest concept of optimization of civil justice by means of information technology. The study of the impact of information technology in civil proceedings was conducted on the basis of integrated use of general and special methods of scientific knowledge. The optimization of civil proceedings as a system of theoretical ideas and views on civil procedural activity from the standpoint of means, methods and techniques of its improvement is considered. The basic elements of the latest concept are the provisions of the general methodological basis for studying the problem of optimization, the concept and structural characteristics of optimization, civil jurisdiction in terms of optimization and ensuring the right to due process, optimization of procedures for preparation and trial of civil

cases, cassation in the system of instance review of court decisions. It has proved that the search for a harmonious combination of protective and conciliatory functions of civil proceedings, as a characteristic concept of modern procedural systems, determines the main directions of optimizing the preparation of civil cases for trial. It has established that in the reform of the judiciary of Ukraine it is important not only to digitize existing processes. The most important thing is to change the approach to justice itself, making it simpler and more accessible to all with the help of information technology. In this sense, the introduction of affordable online court involves not only the introduction of innovative technologies, but also the revision and significant simplification of procedural rules.

Keywords: Information Technology; Optimization of Civil Proceedings; Code of Civil Procedure; Electronic Litigation.

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Introduction

The goal of Ukraine's judicial reform is to restore public confidence in the judiciary and ensure real access to justice. The introduction of the latest technologies in civil proceedings has designed to ensure the achievement of this goal.

In recent years, the role of digital technologies is growing optimization of civil proceedings. The examples of such technologies are mobile technologies (eg smartphones, tablets, laptops); cloud computing, digital signature; chatbots, natural language processing; mobile ID, Internet of Things; and artificial intelligence. These and other digital technologies are changing significantly civil proceedings. The problem of optimization of civil proceedings concerns the search for and substantiation of the necessary forms of improving the civil process, the procedure for carrying out civil procedural activities, increasing its efficiency. This is very important in terms of ensuring the actual evolutionary nature of the development of civil justice.

Widespread introduction of information technologies in the work of courts, bodies and institutions of the justice system, as well as automation of their activities, became a key aspect of the Strategy for Reform of the Judiciary and Related Legal Institutions for 2015-2020, approved by Presidential Decree of May 20, 2015 № 276.

The implementation of the Strategy envisages a set of significant changes to the legislation on the organization of the activity of courts, bodies and institutions of the justice system and the procedure for ensuring their functioning. Significant transformations are due

to further automation of justice. Regulatory support for such transformations is regulated by the Law of Ukraine "On Amendments to the Commercial Procedural Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other legislative acts", which entered into force on December 15, 2017.

An important innovation is the creation of a Unified Judicial Information and Telecommunication System (UJITS). The Order of the State Judicial Administration of Ukraine of April 13, 2018 № 168 approved the Concept of building the Unified Judicial Information and Telecommunication System.

The Commercial Procedural Code of Ukraine (p. 4) provides for the right to go to court, thanks to updated mechanisms for automating judicial and administrative processes and translating most transactions into electronic form. The novelty of the Civil Procedure Code is electronic litigation, including the list of means of proof supplemented by electronic evidence.

The introduction of electronic litigation is an important step to optimize and improve the system of civil litigation, which provides participants in the business process the opportunity to:

- submit and receive procedural documents in electronic form;
- use templates of claims, appeals, cassation statements;
- to transfer the authority to submit documents to the court to a representative;
- to get acquainted with the messages left by the court to the address, etc.

The Unified Judicial Information and Telecommunication System (UJITS) should simplify and speed up the consideration of court cases:

- translation of office work into electronic form;
- providing the opportunity to submit and receive procedural documents online, to participate in court hearings by videoconference on a regular basis;
- automation of business processes, including the processes of document circulation, litigation, preparation of operational and analytical reports, providing information assistance to judges;
- automation of processes that provide financial, property, organizational, personnel and information and telecommunication needs of the judiciary.

In addition to remote submission of documents and correspondence with the court and participants in the process, the possibility of remote participation in court hearings by videoconference is becoming especially important.

The Law of Ukraine “On Amendments to Certain Legislative Acts Aimed at Providing Additional Social and Economic Guarantees in Connection with the Spread of Coronavirus Disease (COVID-2019)” amended the procedural codes on the possibility of participation in

court during quarantine meetings by videoconference outside the courtroom using their own technical means. The lawyers, representatives of the parties and other participants in the trial were given the opportunity to participate in the hearing from their own computer or telephone.

The Law of Ukraine "On the Judiciary and the Status of Judges" (pp. 152 - 153) approved the Procedure for working with technical means of videoconferencing during a court hearing in administrative, civil and commercial proceedings with the participation of the parties outside the court.

To participate in the meeting by videoconference:

- the party to the case must pre-register with the help of an electronic digital signature in the EasyCon system on the official web portal of the judiciary of Ukraine, check its own technical means for compliance with technical requirements;
- the party to the case submits an application for participation in the court session by videoconference outside the court premises not later than 5 days before the court session;
- the application of the participant on the day of its receipt in court has registered in the automated document management system of the court and transmitted to the relevant presiding judge, who decides on the possibility of holding a meeting by videoconference if technically possible;
- this decision must be notified to the party to the case, who submitted an application for participation in the hearing by videoconference.

Thus, the introduction of the e-Court subsystem, in particular through remote submission of documents and correspondence with the court and participants in the process, participation in court hearings by videoconference - is the first step towards a renewed justice system in Ukraine. All this will give businesses and citizens the opportunity to resolve disputes more quickly and with less logistical costs.

Given that there are no problems with exercising the right to participate in a court hearing by videoconference, the submission of procedural documents to the court remotely, from a practical point of view, is quite relevant.

In this aspect, it should also be noted that the introduction of e-litigation is one of the topics for discussion at various forums, conferences and more. According to the President of Ukraine Volodymyr Zelensky (All-Ukrainian Forum "Ukraine 30", 2021), the challenge of the judicial system is to eliminate abuses and ensure court transparency. Solving the problems of optimization of justice can be IT - solutions. By analogy with public services, it has planned to move the format of the court to the online mode, which will minimize bureaucratic procedures, speed up the trial, minimize corruption and opportunities for abuse.

Thus, the issues of development and optimization of the judicial system in Ukraine by means have updated information technology. All of these challenges are particularly important in the context of COVID-19, which necessitates remote participation in litigation.

The aim of the study - development of scientifically substantiated proposals and recommendations on the latest concept of optimization of civil proceedings by means of information technology.

However, for the introduction of technology, it is important to understand the needs of citizens for the services (so-called "electronic services") that the state must provide.

There are information requirements:

- all information must be available in digital format;
- be accessible through a single user interface ("digital assistant");
- be provided as soon as possible at the right time and place.

The condition for optimizing civil proceedings is the availability of information for all participants to effectively perform their duties. That is, all databases related to the state must be seamlessly integrated with each other, be compatible.

In the process of using the e-Court subsystem, citizens face a number of problems related to its rejection by the judiciary. According to the decision of the Council of Judges №75 of September 20, 2019, there are complaints from citizens due to non-acceptance by the courts of procedural documents in electronic form by means of the subsystem "Electronic Court". The Council of Judges recommended that courts accept documents submitted through the relevant system. In the conditions of quarantine restrictions, there are additional rules that recommend participants to go to court, submit documents by e-mail.

The intensification and computerization of society require every branch of government to respond appropriately, including for the effective resolution of disputes in court.

Literature Review

The information and communication technologies have a significant impact on the efficiency of law enforcement and the judiciary, and hence on the security of citizens (Bielova et al., 2017). The introduction of e-litigation is the basis of the latest concept of optimization of civil litigation, which accumulates legal values in relation to the court and justice, determines the best ways to achieve goals (Bondarenko et al., 2019).

The development of information technology, as a means of optimizing civil proceedings, is a new serious challenge for the structures of judicial governance. The management of the civil justice system through information technology opens up new opportunities for strengthening institutional independence (CCJE, 2011). Agustí Cerrillo & Martínez (2009) consider the impact of technology on the judiciary as a social sphere. Computer demonstrations and electronic documents can improve presentations and provide a clearer and

more well-organized case. The authors study e-justice, which has based on the use of information and communication technologies in the judiciary. João Rosa et. Al., (2013) believe that the introduction of information systems in the courts can reduce both the time and the number of pending processes, increase the efficiency of providing services to citizens and society as a whole. According to researchers, special attention should be paid to risk factors in the design, development and implementation of information systems in the judicial system. The researchers present the experience of developing an e-Justice information system in Cape Verde, a developing African country. The results showed that the field of informatization of the judicial system covers a wide range of participants: from a team of designers to the training of justice agents. After all, the existing gaps in knowledge between the design team and users can damage the whole system.

The experience has shown that the use of technology in the courts affects the way individuals protect their rights to a limited extent, usually by automating unnecessary tasks. As a conservative institution with the oldest rules, courts are slow to implement technological innovations (Babenko et al., 2018; 2021). The COVID-19 pandemic highlighted the inertia of innovation, showing the outdated nature of the jurisdiction's functioning.

At the same time, the role of the judiciary in overseeing the executive and protecting the rule of law is currently growing (UNODC, 2020). In an effort to mitigate the impact of the crisis, the courts of many countries (Belgium, Denmark, Greece, Portugal, Slovenia), with the support of the government, have taken appropriate adaptive measures. Solutions for video conferencing, telephone conferencing, increased use of written procedures and the provision of documents by e-mail (Impact of COVID-19 on the justice field) have begun to be implemented. Countries around the world have begun to introduce into the system of jurisdiction practices that are proportional to their level of readiness and digitization. Kurchinskaya-Grasso (2020) identifies the main problems of development of "electronic" civil proceedings, in the conditions of active development of electronic technologies and improvement of technical means of social communication, acceleration of information exchange. The author pays special attention to changes in the legislation on legal regulation of modern information technologies in civil proceedings. Based on the study, the author argues the need for full-scale implementation of e-justice, which has a positive impact on the judiciary, will increase public access to justice and improve the quality and efficiency of the courts. The information technology in civil litigation is able to eliminate the limiting factors that have become particularly relevant in the context of the Govid-19 pandemic.

The development of online courts is a promising option for the transformation and deeper transformation of the courts (EBRD).

Dahiru Muhammed Abubakar (2020) sees the use of information and communication technologies as the latest opportunities to improve the case - to consider and resolve cases fairly and in a timely manner at a reasonable cost. That is, the judicial processes must be efficient and resources must be used without waste.

The information systems also contribute to the fairness of the justice process, as all those who need to have access to and seek access to the justice system have access to it (Gutorova et al., 2019; et al., 2019).

Kennedy (2021) believes that information and communication technologies are radically changing the functioning of the legal system. Therefore, according to the researcher, "Lawtech", or technology that supports, replaces or improves the provision of legal services and the functioning of the justice system, is becoming increasingly important. Yes, Lawtech raises important ethical issues, machine learning tools help judges make decisions. Some jurisdictions replace judges with artificial intelligence, using them to predict the outcome of a trial. The author believes that Lawtech provides an opportunity to improve the market of legal services and the justice system for the benefit of citizens and consumers. However, in certain circumstances, the lack of technology in the judiciary can exacerbate existing problems or create new ones.

Dymitruk (2019), Soukupová (2021) consider issues related to the use of artificial intelligence in judicial practice. The authors emphasize that there are some major risks associated with the use of artificial intelligence in legal practice.

Zhurkina et al. (2021) explores the latest problems caused by the rapid development and increase in the use of information technology and their possible further impact on civil proceedings. Using the analysis of the legislation of the USA, Great Britain, Japan, Singapore, Russia and a number of other countries, the authors concluded the basic principles and features of information technology use in civil proceedings and their relationship with the principles of traditional civil justice. Based on the results of the study, the authors put forward a number of theoretical and practical proposals for improving the legislation in the field of information technology in civil proceedings.

Temirzhanova, Lyazzat A. et al. (2019) investigate a new type of crime - fraud committed with the help of modern information technology. In the field of technological innovation in the field of justice and the judiciary, in particular, the latest terms are being introduced today: Cyberjustice (CEPEJ, 2019), e-justice (Wolters Kluwer, 2018), e-court (World Bank, 2014), online court (Supreme Court - online court Protocol, 2007), online dispute resolution (ODR) (ABA, 2002; Katsh, M. Ethan Rabinovich-Einy, Orna, 2017), e-Justice (Ahmad Tholabi Kharlie et. Al, 2020, etc.).

Despite some nuances of differences, most terms are sometimes considered interchangeable, because they all have one thing in common - digital innovation in the judicial process.

So, the latest concept of optimization of civil proceedings by means of the introduction of information technology operates in the following main terms: digitalization, digital transformation, online courts.

The digitization in context Civil litigation means the transmission of information or processes through digital tools, in digital form (Jason Bloomberg, 2018).

The digitalization is a way to restructure many areas of social life through digital communications and media infrastructures (Scott Brennen & Daniel Kreiss, 2016; Hubanova et al., 2021). Recording defines digitization as the material process of converting analog information streams into digital bits.

The digital transformation involves not only the integration of technical innovations into the work of the judiciary, but also a rethinking of judicial processes in their entirety (Ivashchenko et al., 2021; Babenko et al., 2019; 2021; Popov et al., 2021). The goal of the digital transformation in civil litigation is to increase access to justice and user satisfaction in court.

Online courts refer to proceedings that have conducted completely remotely: from online filing of a lawsuit to making a decision through an online service available to the parties or their representatives (Richard Susskind, 2019). Online courts provide online judges in online court hearings. The evidence and arguments have presented through online platforms, through which judges also make their decisions. Online courts use technology that allows courts to make more than just court decisions. Accordingly, the design of the program for online courts should be simple, convenient, understandable, such that allows a person without legal education and without the help of qualified lawyers to perform all necessary actions to resolve the dispute online.

Online judge provide tools to help users understand relevant legislation and available options, as well as formulate arguments and gather evidence. They propose non-judicial arrangements, such as negotiations and early neutral evaluation, not as an alternative to the public judiciary, but as part of it. According to researchers, artificial intelligence, machine learning and virtual reality will continue to dominate the judiciary.

Methodology

The methodological basis of this study is a set of philosophical and worldview, general scientific principles and approaches, special scientific methods of knowledge of legal phenomena. The study of the impact of information technology in civil proceedings was conducted on the basis of integrated use of general and special methods of scientific knowledge. Te systematic analysis, reflecting the characteristic features of civil procedural legal relations, gave grounds to substantiate the structure of optimization of civil proceedings and see in each object of study a holistic system, identify its own elements and learn their natural relationships.

The activity approach makes it possible to approach the study of the problems of optimization of civil proceedings from the standpoint of established ideas about the peculiarities of its stages, cycles and proceedings, determine the sequence of civil

proceedings. The application of the dialectical method provided an opportunity to learn the need and limits of the introduction of information technology in civil proceedings, to establish links between electronic evidence and other legal phenomena, the relationship between the form and content of electronic evidence.

The method of logical analysis was used to establish the content and direction of the rules of civil procedural law governing relations; dogmatic - to analyze the rules of civil procedural legislation of Ukraine on the introduction of information technology in civil proceedings; the comparative method - for the analysis of the provisions relating to relations in the Civil Procedure Code of Ukraine and the previous civil procedural legislation, as well as a comparison of the solution of these issues in the Civil Procedure Code of Ukraine and acts of civil legislation of the European Community.

To use of the method of systematic analysis allowed to consider the place of electronic evidence in the system of civil proceedings.

The normative and legal basis of the study are the Constitution of Ukraine, international treaties of Ukraine, the binding nature of which was approved by the Verkhovna Rada of Ukraine, acts of civil procedural legislation of Ukraine and some foreign countries.

The theoretical basis of the study are scientific works of domestic and foreign scholars, as well as research in the field of general theoretical jurisprudence, constitutional, civil law, criminal procedure and other branches of the legal system of Ukraine.

The empirical basis of the study consists of decisions of the European Court of Human Rights, decisions of the Supreme Court, as well as decisions of local courts of general jurisdiction.

Results

Analytical assessment of civil proceedings in Ukraine: efficiency, effectiveness

Innovations of the Civil Procedure Code of Ukraine (as amended in 2017) have aimed at improving the efficiency of civil proceedings and bringing it in line with international standards of justice and fairness. As a result, the legal norms of classical civil proceedings have undergone fundamental changes, and a new system of civil procedural law has been created. These changes are based on the idea of fundamental human rights and ensuring access to justice as an international standard of fair trial. The control over the national cassation procedure means the transition from the constitutional level to the limited cassation procedure and the introduction of a number of procedural filters in order to increase the efficiency of the cassation procedure. At the same time, the restriction on obtaining maximum legal protection, for example, in minor cases, is not absolute (paragraph 2 of Article 389 of the CPC). Comparative statistics of the judicial administration throughout the civil judicial system show that there are problems in the law enforcement process at the level of

recognition and recognition of civil cases. According to statistics (What the statistics say, 2019), in 2018 there were 1,407,795 court and civil cases in court:

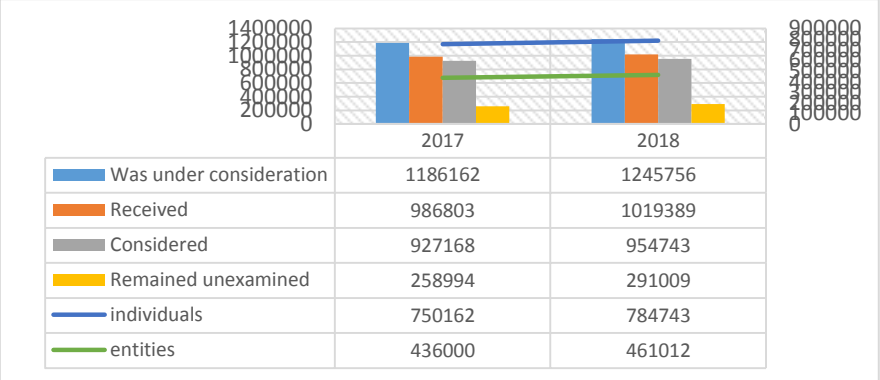
- in the district court - 1,245,756 appeals and cases;
- in the Court of Appeal - 108,697 appeals and cases;
- in the Civil Court of Cassation - 53,342 appeals and cases.

Given the status, role and appointment of the Supreme Court, the number of appeals and pending cases before the Court of Appeals and the Supreme Court of Appeals, this indicates that this is a systemic problem that needs to be addressed. Every other case approved by the Court of Appeals is currently pending. That is, the quality of court decisions should be improved at the level of appellate courts. The novelty of the Civil Procedure Code is to change the structure and functioning of the civil procedural system and modify some procedural procedures, namely:

- division of the procedure for filing complaints into simplified and general procedures;
- simplification of order injunctive proceedings;
- creation Institute of Minor Affairs;
- strengthening the importance of preparatory procedures.

The Judicial reform has aimed, in particular, at reducing the number of pending cases through the introduction of other dispute resolution mechanisms.

However, the number of lawsuits has not decreased (Figure 1).



	2017	2018
Was under consideration	1186162	1245756
Received	986803	1019389
Considered	927168	954743
Remained unexamined	258994	291009
individuals	750162	784743
entities	436000	461012

Figure 1. Number of Civil Cases pending in the courts of Ukraine

If we compare the local ordinary courts in 2017 and 2018, we will see that in 2018 they considered more civil cases. However, due to the increase in the number of new cases, the number of unresolved cases also increased:

- In 2017, 1,186,162 cases were pending in local courts, and in 2018 this number increased to 1,245,756;
- In 2017, 927,168 cases were considered, and in 2018 their number increased to 954,743;
- In 2017, 258,994 cases remained unsolved, and in 2018 their number amounted to 291,009 cases.

The analysis of the subjects of the appeal to the district court shows that in 2017 750162 people applied to the district court, and in 2018 this number increased to 784743 people. High rates of appeals and legal entities for the protection of civil rights have maintained: in 2017 there were 436,000 legal entities, compared to 461,012 legal entities in 2018.

At present, the issue of non-enforcement of a court decision remains relevant in Ukraine.

Thus, in 2017, local ordinary courts issued 780,866 executive documents, and in 2018 their number increased to 822,606.

It is currently impossible to provide accurate information on how many court decisions have been enforced in enforcement documents. This indicates the ineffectiveness of judicial control over the execution of court decisions, as provided by the Civil Procedure Code of Ukraine.

Thus, an important innovation is the support of the CPC Arbitration: arbitrability of disputes, judicial control of the validity of the arbitration agreement, precautionary measures, namely: preliminary provision of evidence, preliminary provision of the claim.

In addition, new organizational and procedural security measures and a counter-guarantee have introduced as a guarantee of compensation for possible damages to the defendant.

The length of civil proceedings remains a pressing issue in Ukraine.

Thus, during 2018, the local general courts considered 954,743 cases, the consideration of which continued:

- up to 3 months - almost 69% of cases (657,500);
- from 3 months to 1 year - more than 21% of cases (258,993);
- from one year to two years - 3.2% of cases (30,324);
- from two to three years - 0.6% of cases (5,674);
- over 3 years - 0.2% of cases (2,252).

The list of decisions that can be appealed separately from court decisions is given in Part 1 of Art. 353 CPC. The implementation of the decisive principle requires a comprehensive consideration of the content of the appeal: not only the appeal against the court's decision, but also the reasons for the plaintiff's request to cancel or change the decision. The Court of Appeal verifies the legality and validity of the decision of the court of first instance only within the arguments and requirements of the appeal and lawsuits filed by the court of first instance. New evidence can be considered in the Court of Appeal only if there are good reasons for not being able to appear in the court of first instance. The Court of Appeal has the right to go beyond the arguments and requirements of the appeal within the rule of law.

With regard to sentences overturned in contested civil cases, the share of appellate courts in overturning sentences varies from region to region. The largest number of revocation decisions was in Chernivtsi region (42%), and the smallest - in Rivne region (26.5%). The national average is 34.6%.

At the level of appeals, the number of unresolved cases increased.

In 2018, the Court of Appeal considered a total of 70,597 cases, of which continued:

- Almost 78% of cases (55086) occurred within 3 months;
- From 3 months to 1 year more than 20.2% of cases (14262);
- 1.5% of cases (1085) from one to two years;
- 0.2% of cases within two to three years (125);
- More than 3 years - 0.1% of cases (39).

The number of revocation decisions, decrees and rulings in civil cases in each region in 2018 is indicative. They show that the Donetsk Court of Appeal maintains the best indicator of the quality of court decisions every year (11.1% in 2018). On the other hand, the results of the Zakarpattia region in 2018 are disappointing - the Supreme Court considered it 25.4% of the highest appeals of the Supreme Court of Appeal.

As of the end of 2018, there were 26 judges in two chambers of the Civil Court of Appeal in civil cases. If we compare the activities of the Judicial Chamber in Civil Cases of the Supreme Special Court of Ukraine and the Civil Court of Appeal of the Supreme Court in 2017-2018:

- There are 43,028 unfinished cases in the Judicial Chamber for Civil Cases of the Supreme Special Court of Ukraine, and 53,342 cases in the Court of Appeal of the Supreme Court for Civil Cases;
- The Judicial Chamber for Civil Cases of the Supreme Special Court of Ukraine considered 18,736 cases, and the Civil Court of Appeal of the Supreme Court - 27,158 cases;
- 23,184 cases are pending before the Civil Chamber of the High Special Court and 24,392 cases are pending before the Civil Court of Appeal of the Supreme Court.
- The Civil Court of Appeal of the Supreme Court heard a total of 53,342 cassation appeals, cases and materials considered in the procedural order.

Of these, 27,483 were transferred from the Supreme Special Court and the Supreme Court of Ukraine, including:

- 23,923 cases and 3,295 cassation appeals were transferred from the High Special Court;
- 265 applications for review of court decisions were transferred from the Supreme Court of Ukraine.

The Supreme Civil Court of Appeals received a total of 25,859 appeals, complaints and high-level materials, including 25,270 high-level appeals and 589 other procedural appeals.

Among the 23,923 cases submitted to the Supreme Court of Appeal in civil cases of the High Special Court and judges of the Supreme Court of Ukraine:

- 11593 cases were considered;
- 9,274 cases are pending before the panel of judges (this is a priority of the Civil Court of Cassation - appointment or consideration of other procedural decisions);
- 2982 cases were distributed but not considered;

- Other procedural actions were applied in 74 cases.

Among the 14,431 cases of new appeals received by the Civil Court of Cassation:

- 5,158 cases considered;
- 8594 cases are under consideration;
- 643 cases were allocated, but not considered;
- Other procedural actions were taken - 36 cases.

A total of 15,686 civil cases were considered by the appropriate number of decisions:

- 10,854 remained unchanged;
- court decision was changed - 147;
- 4685 distinctions, including 944 new regulations, accounted for more than 20% of all canceled.

The latter indicator is very important, as it indicates the need to improve the quality of decisions of the courts of appeal of the first instance.

In other words, the novelty of the Code of Civil Procedure is very important for clarifying the tasks and basic principles of justice - not only the tasks of the courts, but also the participants in court proceedings.

At the beginning of 2018, the Civil Court of Appeal of the Supreme Court received 598 applications for review of court decisions, including:

- 69 submitted to the Grand Chamber;
- 285 returned, refused acceptance, admission, left without consideration;
- 52 remain pending;
- 192 considered on the merits, of which:
- 61 were satisfied, the court decision was revoked (including with the adoption of a new decision), of which new decisions were made 23.
- 126 court decisions were left unchanged.

In addition, in 2018, the panel of judges of the Supreme Court of Civil Court transferred 33 cases to the Joint Chamber of the Supreme Court of Civil Court.

Disputes arising from treaties account for the majority of appeals to the Supreme Court.

In 2018, the Civil Court of Cassation referred a total of 565 cases to the Grand Chamber, of which: Contract disputes (160); Land disputes (83); Claims for damages (61); Labor disputes (42); Property disputes (35); Housing disputes (20); Other disputes (164).

The reasons for referring the case to the Grand Chamber are also different. In the first place are violations of the rules of substantive or subjective jurisdiction (396 cases), which are clearly provided by procedural law.

Such indicators point to the need to improve procedural legislation and introduce new tools that can ensure the effectiveness of civil proceedings.

Thus, an important novelty of the CPC is the modernization of appellate and cassation proceedings, in particular by introducing cassation appeal filters.

In 2018, the Supreme Civil Court of Appeal considered a total of 25,863 appeals to the Supreme Commission, of which:

- 3369 - returned;
- 15,972 cases were initiated;
- 6522 lawsuits were rejected, of which: insignificance - 3228; unfoundedness - 1,525; other reasons - 1769.

The share of refusal to initiate cassation proceedings due to the insignificance of the dispute is 12.5% of the cassation complaints received. Thus, this filter format is effective, but such a CPC innovation points to both advantages and disadvantages.

The largest number of cases considered by the Civil Court of Appeal of the Supreme Court in 2018:

- Contract disputes (8940);
- Disputes over damages (2687);
- Disputes arising from labor relations (2138);
- Disputes over family relationships (1985);
- Disputes related to housing relations (1392);
- Disputes related to land relations (1790);
- Other types of cases (6287).

The largest share of cases has related to credit agreements, loans and bank deposits. In 2018, 4,088 such cases were considered.

According to other contractual relations, the situation is as follows:

- Purchase and sale agreement (338);
- Donation agreement (152);
- Lifetime maintenance agreement (28);
- Lease agreement (88);
- Service Agreement (173);
- Insurance contract (179);
- Other agreements (1510).

In the case of disputes arising from loan, credit and bank deposit agreements, in the vast majority of cases the Supreme Court either refuses to initiate proceedings or refuses to satisfy such cassation appeals in accordance with established case law.

Judging by the work of the High Civil Court of Appeal, attention should be paid to the burden of judges in accepting the Supreme Appeal, cases and materials.

On average, each judge hears 84 cases and 103 cassation appeals per month.

For example, according to data for 2018, the workload was 920 cases and 1132 cassation appeals.

The average judge in 2018 considered:

- 93 cassation appeals, cases and materials per month;
- 1,023 cassation appeals, cases and materials annually.

The average number of cases heard by a five-judge panel is 1582. If judges have involved in other proceedings, the average number will increase to 2189. This is an extremely high burden on judges.

It can be said that the workload of judges of the Supreme Court is an obstacle to the establishment of the Supreme Court in Ukraine. Thus, the main task of the court is to ensure the stability and uniformity of judicial practice, as well as to ensure equal application of substantive and procedural law.

The judicial reform in Ukraine includes fundamental changes in judicial legislation and the status of judges, constitutional changes and important changes in procedural legislation.

One of the problems facing the judiciary is the length of the trial.

It is necessary to establish cooperation with lower courts, provide methodological information to appellate and local courts, as well as unify methods of applying procedural laws in different jurisdictions.

Information and digital technologies: introduction of electronic litigation - world experience, prospects of Ukraine

The foundations of the digital transformation in the judiciary were laid in 1995 (Recommendation № R (95) 11, 1995), when the priorities for the development and operation of automated judicial systems were identified. In many countries around the world, the digitalization of the judiciary has taken place in stages over decades.

In the federal courts of the United States in 1988, automated systems were introduced as an experiment, which provided the ability to sue in electronic form, as well as obtain information about court cases and case materials.

The European countries began the process of digitalization of the judiciary in 2008-2009 (European e-Justice Strategy, 2008; 2009-2013; 2014-2018; 2019-2023), and already have a successful system.

In line with the latest challenges posed by the Covid-19 pandemic, the European Bank for Reconstruction and Development is raising the issue of online courts and their role in accessing justice during the pandemic (EBRD, 2020).

By survey resultsconducted by the European Commission on the Effectiveness of Justice (CEPEJ), revealed the degree of readiness of EU countries to implement IT in European courts (Dory Reiling).

The countries with a high level of IT implementation in the courts have been identified as Finland, Norway, Austria and the United Kingdom, as well as Estonia, Slovakia and Hungary. High levels of IT integration in the judiciary are common in France, Germany, Sweden, Latvia, Bulgaria and the Netherlands. The high-level countries are characterized by technologies that provide direct support to judges and support staff. Countries in this group are ahead of other groups with digital access and communication. They use web forms, special websites and other electronic forms of communication more and more often than others.

The IT solutions play a crucial role in improving the efficiency of the judiciary, provided proper management, help to constantly improve the efficiency of the courts.

For example, Estonia has one of the most efficient judicial systems in the world thanks to fully automated litigation and electronic means of communication (e-justice solutions). Today, Estonia is the only country that is almost translated all interaction with citizens and business into digital. About 100% of public services are available online. In 2019, Estonia approved a strategy for national AI (Artificial intelligence).

In 2018, the European Commission on the Efficiency of Justice of the Council of Europe adopted a major international act – the Ethical charteron the use of artificial intelligence in the judicial system and its environment (European ethical Charter on the use of Artificial Intelligence in judicial systems and their environment). The main purpose of the Charter is to improve the efficiency and quality of justice by developing algorithms of court decisions and data while respecting the fundamental rights and freedoms that are guaranteed, in particular, the European Convention on Human Rights and the Council of Europe Convention for the Protection of Personal Data. The scheme of the central information system Electronic business (e-File) has presented in Figure 2.

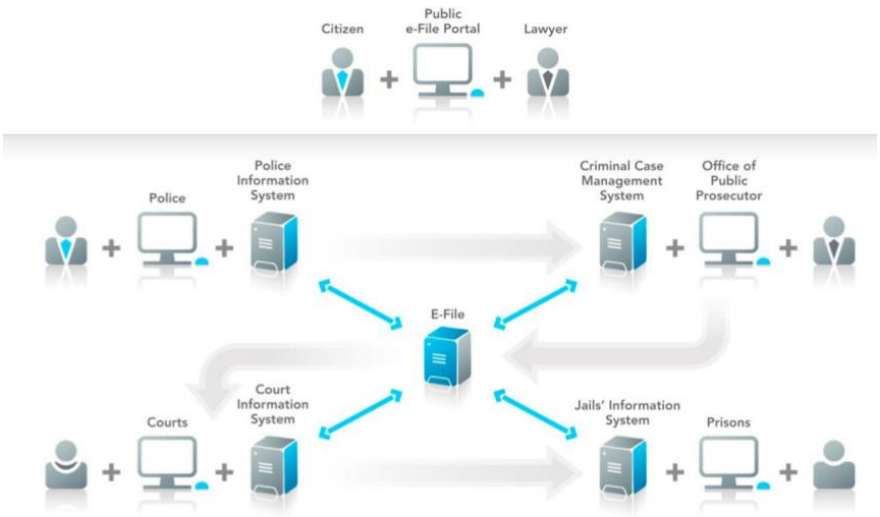


Figure 2. Scheme of e-File operation

Source: Project PRAVO-Justice, 2020

The public e-File portal is a part of the Electronic Case that collects documents for the initiation of civil, administrative or enforcement proceedings. You can monitor the progress of these proceedings online, submit documents and participate in the proceedings. The public part of the Electronic Case has protected for third parties who are not participants in the process.

If lawsuits have filed via e-File, all required documents are automatically uploaded to the Court Information System (CIS). The CIS is the only information system for all types of litigation in Estonian courts of first and second instance and in the Supreme Court.

The main features of CIS:

- allows you to register court cases, hearings and court decisions;
- provides automatic distribution of cases between judges, creation of summonses, publication of court decisions on the official website and collection of metadata;
- provides the ability to search for court documents, court decisions, hearings and cases.

The COURTAL e-litigation system was introduced in Estonia six years ago. The official website of the system states that COURTAL is a simple document management system for court litigation and management, the use of which in Estonia allowed to spend 32% less time on various court proceedings than the average in Europe.

Thus, COURTAL is a convenient integration of the interaction between the court and related institutions: the prosecutor's office, the police, the bar, other institutions of the justice sector and stakeholders, official databases and more.

The Estonian portal COURTAL can become the basis of a new automated document management system in the High Council of Justice of Ukraine.

The developers of the system claim that the introduction of COURTAL has contributed to the growth of the country's international rating, as the efficiency of the judicial system plays an important role in assessing the ease of doing business.

Automation of litigation processes allows to save money, improve the interaction of all persons concerned, increase transparency, accountability, ensure the confidentiality of users and data.

For example, the National Assembly of Bulgaria adopted in first reading a bill amending the Civil Procedure Code (2020), which provides for the introduction of electronic technology and digitalization in the judiciary. One of the main innovations of the bill is the holding of open court hearings remotely.

Having created the possibility of remote court hearings, courts and parties now have the freedom to choose an electronic platform for videoconferencing, as the court remains obliged to implement and monitor compliance with technical requirements for any electronic process.

Each court hearing, which is held by videoconference, will be recorded and attached to the case file.

The bill also regulates the mode of gathering evidence by videoconference. In Bulgaria, the normative regime for collecting and presenting evidence has traditionally been conservative. As a result, reforming the legal framework for evidence on the digitization of litigation has considered necessary and welcomed.

According to the changes provided for in the bill, the interrogation of witnesses by videoconference will be possible in civil proceedings if the witnesses live or live outside the court district and cannot be present in court.

The experts who prepare forensic examinations for court cases operating outside the court will also be heard and interrogated remotely. At present, the experts have required to be present in the courtroom and listen to them in person. If this is an obstacle, the case is postponed, which can lead to a significant delay in the case.

To ensure the lawful conduct of a remote court hearing, the bill provides for videoconferencing from a special courtroom, prison or pre-trial detention center at the place of residence of persons. The identity of the conference participants will be checked by the secretary of the relevant court.

Within the framework of the Concept of the sectoral program of informatization of courts of general jurisdiction and other institutions of the judicial system for 2013-2015, the subsystem "Electronic Court" was created within the Unified Judicial Information System of Ukraine. In 2016, the results of a pilot project were presented, the essence of which was to try to introduce electronic document management as a mechanism of interaction between the court and the participants in the process, as well as with the court of higher instance.

The e-court provides litigants with the following opportunities:

1) obtaining information on the stages of litigation;
2) sending procedural documents by e-mail to participants in the trial;
3) sending a court summons in the form of SMS-messages;
4) payment of court fees online;
5) disclosure of information in bankruptcy cases.

Decisions on the digitalization of justice in Ukraine with the prospect of transitioning trials to a full-fledged online regime were made in 2017:

- new procedural codes were developed, which provided for the introduction of an electronic justice system in Ukraine according to a model similar to the Estonian one, by fully digitalizing all processes in all courts;
- the Unified Judicial Information and Telecommunication System (ESIS) was to be launched in early 2019.

The single forensic information and telecommunication system includes the following subsystems (modules):

- The only contact is the center of the judiciary of Ukraine;

- The only subsystem for managing financial and economic processes;
- The official e-mail address (e-office);
- The official web portal "Judiciary of Ukraine";
- Unified State Register of Judgments;
- The electronic court;
- Automated distribution;
- Judicial statistics and others.

At the beginning of June 2018, the Unified Judicial Information and Telecommunication System (UCITS) - the Electronic Court - was tested in 18 domestic courts in Ukraine. The system was launched in the courts of Kyiv, Odesa, Vinnytsia, and even in the Donetsk Administrative Court of Appeal (currently operating in Kramatorsk). The Project provided an opportunity to file a claim and other documents in electronic form.

According to the recommendations of international experts on the implementation of e-justice systems, e-justice should be made mandatory, and paper exchange of documents - an exception. As about 60% of the population of Ukraine currently has access to the Internet, the transition to full paperless document circulation is impossible at this stage.

The current stage of development of e-litigation in Ukraine shows that despite all the obvious advantages of e-litigation, the e-Court project (in the narrow sense) has not gained widespread popularity and its progress is extremely slow. The situation is the same with other national electronic projects in court proceedings (exchange of electronic documents with the use of electronic digital signatures, holding court hearings by videoconference, use of electronic information kiosks, etc.).

The most of experts believe that the main deterrent to the development of electronic justice in Ukraine is:

1) the lack of a single unified information platform for communication between the participants in the process with the court and other government agencies. This forces users to use different software and hardware to access different services. Under such conditions, e-litigation is more troublesome and time-consuming than regular paperwork;

2) the lack of uniform standards for information content, which must meet the relevant judicial information resources, electronic services, and the lack of incentives to improve them. The high-quality content of information sites, electronic kiosks and other court resources are sometimes filled with information that does not carry the expected load;

3) insufficient funding of the judicial system, in particular the cost of informatization, the inability of the system to meet the needs of users due to lack of capacity of software and hardware systems and lack of specialists to service them;

4) lag behind the pace of development of procedural rules from information technology. Attempts to integrate new information technologies into the existing system of procedural norms of different branches of judicial jurisdictions only partially improve the process.

Fragmentation of changes in the rules of the judicial process does not bring the expected effects, because the system needs transformational changes at the system, at all levels.

In 2021, the Verkhovna Rada of Ukraine approved a bill on the Unified Judicial Information and Telecommunication System (UCITS). This is one of the main steps towards the introduction of electronic justice in Ukraine.

Today in Ukraine the subsystem "Electronic court" works in an experimental mode. The statistics show that thanks to this technology, almost 2,500 procedural documents are submitted daily.

E-litigation stipulates that all courts in Ukraine will be required to accept procedural documents from citizens, government agencies and businesses online, through the e-court subsystem.

The single judicial information and telecommunication system will allow for remote communication between the court and the participants in the trial by exchanging procedural documents in electronic form and will enable citizens to apply to the court and participate in court cases online.

The *Unified Judicial Information and Telecommunication System* (UJITS) currently has four subsystems: the e-Court, the e-Cabinet, the videoconferencing, and the single contact center. Other UJITS subsystems will be introduced in stages as they are developed. This will make the judicial system more modern and efficient.

As for full-fledged online courts, they can function successfully in resolving minor disputes. The Code of Civil Procedure makes it possible to consider such cases in summary proceedings without holding open court hearings.

The goal of Ukraine's judicial reform is to make court services accessible to people. The experience of China, Singapore and Canada is interesting and relevant. That is, it is a new regime of justice - the transfer from providing them in a "fixed place at a fixed time" to "access from anywhere 24 hours a day."

For example, Chinese citizens have the opportunity to file a lawsuit using the WeChat mobile app. And works with the help of artificial intelligence competently answer all their questions, without the need to fill out a number of complex procedural documents. All you need to do is answer a few questions online and take photos of the documents. China also has a powerful online enforcement center that tracks debtors for their banking transactions, through social media, buying tickets, booking hotels, and more.

Thus, according to the experience of the world, a single information system for the entire judiciary:

- increases the efficiency of the judiciary due to the rapid transfer of data into templates and a significant acceleration of litigation;
- creates conditions for a more complex division of cases, which allows judges to manage their workload and specialize;
- provides automatic generation of documents: standards of court orders, agendas, etc.

Conclusion

This study examines the latest concept of optimizing civil justice through the introduction of information technology. It has proved that in the conditions of convergence of legal systems there are changes in the typological characteristics of civil proceedings. One of the areas of optimization of civil proceedings is the introduction of information technology: providing the court with e-mails, files of documents from work computers as evidence, non-traditional means of proof (log files, information from Internet services, etc.). The optimal form of civil proceedings, along with the minimum standards of accessibility of the court and fairness of the trial - the dominants of modern development of civil proceedings. The most successful projects to prepare the basic principles and rules of civil justice in recent decades have reflected the fundamental trends in the development of civil procedural law - the unification and harmonization of individual institutions and norms. In this logical series it is worth mentioning the optimization of civil proceedings. The unifying factor of these legal phenomena is the desire to create a fair and effective legal procedure, based on meaningful commonality and differences in the mechanism of judicial protection of civil rights.

The electronic litigation influences the principles of optimization of civil litigation: (1) an Internet sites of courts and judicial authorities; (2) the electronic document management system; (3) providing documents in electronic form; (4) court correspondence in electronic form; (5) the electronic archiving; (6) the electronic litigation; (7) remote participation in court hearings; (8) transfer for execution of a court decision in electronic form, etc. The studies of best practices in the world have shown that the systematic implementation of elements of electronic justice has a positive effect on justice.

The research has shown that Ukraine strives for European values, including the right to judicial protection and a fair trial. Optimization in civil proceedings can be presented as a process of creating such court procedures that help save the resources of participants in the process and the court, as well as the formation of the expected and convenient process of justice for them. The studies have shown that digital technologies are becoming important in optimizing civil litigation. Optimization should be considered as a complex and complex legal category. Any slice of civil procedural activity can be studied from the standpoint of optimization, on each of the structural components of civil proceedings.

Conflict of interest

The authors declare no potential conflict of interest regarding the publication of this work. In addition, the ethical issues including plagiarism, informed consent, misconduct, data fabrication and, or falsification, double publication and, or submission, and redundancy have been completely witnessed by the authors.

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