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Digitalization of Civil Justice in Ukraine

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Technology development has greatly expanded the use of information technology not only in all spheres of life but also in the field of justice. The top priority of Ukraine is the desire to build a development-oriented information society. The introduction of information and communication technologies into the modern court procedure requires both sound scientific understanding and effective legislative regulation. At present, however, the scientific development of these issues remains insufficient, which in turn slows down the reform of domestic procedural legislation. The purpose of the paper is to identify the features of implementation of the e-justice system in the Ukrainian judiciary. The introduction of electronic order for payment proceedings in civil justice is a step towards modernization of national procedural legislation, an attempt to introduce elements of the standards of a uniform European civil procedural law, albeit insufficiently systematic, appropriate, and consistent with the current legislation. The purpose of the introduction of e-justice should be to ensure the accessibility of justice, to improve the quality of the work of the courts and save considerable public money. In particular, access to justice will be ensured through the exchange of electronic documents between all parties to the trial, the reduction of court costs for postal items and the production of paper documents, the ability to hear the case in videoconference mode. Implementation of the Electronic Judiciary Project is one of the directions of improving the efficiency of justice in Ukraine.

Keywords: state-of-the-art technology in legislation, e-justice, videoconferencing, order for payment proceedings, human rights protection.

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INTRODUCTION

Technology development has greatly expanded the use of information technology not only in all spheres of life but also in the field of justice. The top priority of Ukraine is the desire to build a development-oriented information society. To ensure openness, accessibility, efficiency of feedback, transparency in the activity of public authorities, e-democracy has been introduced in Ukraine over the last decade, an important element of which is e-justice as a component of e-government. Some scholars even emphasize that "e-justice is the most important facet of e-democracy" (Bryntsev 2016). It is precisely the possibility of protecting the right that serves as a guarantee of its effective implementation and the ability of citizens to freely exercise their rights in a democratic state largely depends on the efficiency of the recourse mechanism (including the judicial one). And effective implementation and application of information and communication technologies upon administration of justice will potentially provide not only the said benefits, but also optimize the judicial document flow, facilitating the promptness/timeliness and accessibility of justice (Calmon 2012, de Resende Chaves Júnior 2012, Fischer 2012, Inchausti 2012, Kawano 2012, Kulski 2012, Rüßmann 2012).

Moreover, electronic forms of communication have already proven to be efficient upon consideration of cases in non-state courts (Kalamaiko 2018), which also inspired the development of the idea of e-justice. At the same time, it is obvious that the introduction of information and communication technologies (ICT) into the modern court process requires both sound scientific understanding and effective legislative regulation. At present, however, the scientific development of these issues remains insufficient, which in turn slows down the reform of domestic procedural legislation. The phased implementation of e-litigation will allow its users to appeal to court, pay court fees, participate in court hearings, and receive necessary information and documents by electronic means (Cano et al. 2015).

In accordance with the recommendations of the Committee of Ministers of the Council of Europe, CM/Rec (2009)1 to the Member States of the Council of Europe on e-democracy of 18.02.2009, e-justice means the use of ICT in the administration of justice by all interested parties in the legal field so as to improve efficiency and quality of government services, in particular for individuals and enterprises. It includes electronic communication and data exchange as well as access to judicial information. As the judiciary is a key component of democracy, e-justice is the most important facet of e-democracy. Its main purpose is to improve the efficiency of the judiciary and the quality of justice. Access to justice is one of the aspect of access to democratic institutions and procedures (Recommendation CM/Rec… 2009).

Digitalization of Civil Justice in Ukraine

The concept of the Electronic Court, as well as e-justice in general, is reflected in provisions regarding the access to justice. Accordingly, Recommendations No. R (95) 11 of the Committee of Ministers of the Council of Europe of 11 September 1995 set out the key objectives for the development and operation of automated jurisprudence systems. The electronic judicial system has several obvious advantages: timely information for lawyers; saving of working time of court employees; saving on printing documents and more. Among its key features to date are the following: electronic filing of claim documents, online consultation on information and documents used in the judicial process, holding an online meeting, electronic inquiries and provision of electronic copies, the ability to use a specific email address at which users of the system may receive information from the court or from lawyers (Lupo & Velicogna 2018).

In recent decades, the EU has actively encouraged and implemented digitalization of European procedures at various levels (for example, the use of technology in litigation, dedicated internet portals, digital management of European procedures). In the process of development of an EU e-justice system to facilitate and support cross-border judicial procedures, the law and technology must be properly integrated into a common system that integrates national and European systems (Ontanu 2019).

The European e-justice portal has long been a powerful online resource for finding a wide variety of information on the activities of the judiciary, rules of procedure, procedural legislation and judicial systems of EU Member States and related institutions (mediation, legal representation in court), a convenient function of "finding" a court that a person needs, through which, after entering basic information about the substance of a claimant's legal requirements, a person obtains information on the court to which they should appeal (European e-Justice Portal 2020). The portal allows to get a consult regarding any legal dispute, find a lawyer or notary in another state, find out how to file a complaint, and the law of which Member State should be applied in a particular case. It is also possible to obtain information on the organization of cross-border videoconferences.

THE BECOMING OF E-JUSTICE IN UKRAINE

The specific regulations that have currently introduced some elements of the Electronic Court in the broad meaning are as follows. This is the Law of Ukraine No. 1402-VIII "On Judiciary and Status of Judges" of June 2 (2016), adopted on June 2, 2016. Article 152 of this Law mandates the implementation of electronic court; taking measures to organize the exchange of electronic documents between courts and other state bodies and institutions. Law of Ukraine No. 3262-VI "On Access to Judgments" of December 22, 2005, Article 2 of which stipulates the obligatory nature of making all court decisions publicly available in electronic form.

The basic principles, tasks and directions of informatization of the judiciary are defined in the Law of Ukraine "On the Fundamental Principles of Information Society Development in Ukraine for 2007-2015" (2007), in the Strategy of Information Society Development in Ukraine (2013), in the Concept of sectoral program for informing courts of general jurisdiction, other bodies and institutions of the judicial system (Concept of sectoral program… 2013) and other regulations. The idea of continuous informatization of all spheres of public life, including the judiciary, was laid down in Ukraine by the Law of Ukraine No. 537-V "On the Fundamental Principles of Information Society Development in Ukraine for 2007-2015" of January 9 (2007). The development of information society in Ukraine and introduction of the state-of-the-art ICT in all spheres of public life and in the activity of state and local self-government bodies has been proclaimed as one of the strategic priorities of the national policy of Ukraine.

Since 2013, the Concept of sectoral program for informing courts of general jurisdiction, other bodies and institutions of the judicial system (Concept of sectoral program… 2013) has been in force in Ukraine, which was agreed within the National Informatization Programme. The Concept defines the improvement of the information and telecommunication system of the courts as the main purpose of the court informatization programme is: qualitative improvement of the level of judicial protection of the rights and freedoms of citizens and legal entities; increasing accessibility, increasing trust in the judiciary, improving public opinion about courts, their role and social importance; formation of a positive image of the judicial system at large; raising the legal level of awareness of the population, their business activity to ensure the protection of their rights, freedoms and legitimate interests in a judicial procedure.

To implement the provisions of the Concept, the Order of the State Judicial Administration of Ukraine No. 105 of January 20, 2015 approved the Provisional Rules for the Exchange of Electronic Documents between the Court and Participants in the Trial (2015), which defines the procedure for submitting documents to the court electronically, and also submitting electronic documents to such participants in parallel with paper documents in accordance with procedural legislation. This Order also defined the procedure for user registration and operations in the system, filing and receiving electronic documents, and sending documents to the user.

On December 11, 2014, the Council of Judges of Ukraine approved a new Strategy for the Development of the Judiciary in Ukraine for 2015-2020 (2014). The Strategy focuses on the development of e-justice. It sets out a plan of action aimed at addressing two key strategic issues. The first is access to justice. The second is the use of innovative technologies and the improvement of litigation (Justice sector reform strategy… 2013). The Strategy specifies that greater use of e-justice will enable users to appeal to

court, pay fees, participate in proceedings, and receive all relevant documentation by electronic means. In turn, judges will be given the opportunity to effectively manage their resources and increase their productivity while balancing work and personal life. The Strategy emphasizes the following points: the need to develop a legal framework on e-justice and integrated information systems to achieve greater transparency, efficiency, access, and fairness of justice; on the need to improve the channels of communication and interaction of information systems, including the external interaction between different state and non-state actors in the justice sector, as well as with Member States and EU institutions and other international actors.

However, an analysis of the specific measures identified in the 2015-2020 Judicial System Development Strategy in Ukraine evidences that the vast majority of them do in fact belong to the level of tactical rather than strategic issues. The Strategy mainly refers to the technical modernization of already existing strategic decisions in the judiciary, which are already embodied in information technologies (publication of court decisions, court statistics, document automation, improvement of internal and external communications, analytics, statistics, etc.). All these measures identified in the Strategy are undeniably useful and necessary. However, all of them together are not capable of taking the judicial system of Ukraine to a higher level of electronic interaction between citizens and the authorities.

03.10.2017 The Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Amendments to the Commercial Procedural Code of Ukraine, the Civil Procedural Code of Ukraine, the Code of Administrative Judiciary of Ukraine and other legislative acts". This regulation amends the Criminal Procedural Code of Ukraine and sets out the Civil Procedural Code of Ukraine, the Commercial Procedural Code of Ukraine, and the Code of Administrative Judiciary of Ukraine in a new wording. Thus, rules containing uniform provisions on electronic justice have been implemented in the procedural codes, and a new type of evidence was introduced – electronic proof. Recent developments in Ukraine's information space evidence the fact that the judicial system is unprepared for the implementation of the electronic justice system and the need to slow down the implementation of the electronic court as part of judicial reform for at least the next few years.

The experience of foreign countries on this issue could be useful for improving Ukrainian legislation. For instance:

– definition of e-litigation as "a hearing in which evidence is presented and stored in court in electronic form", with the rights of the parties to express their views on how to conduct the hearing and using what technology (Canada) (National Model Practice Direction… 2006).

– provision of US users with access to the list of parties involved in the case, case information (number, subject matter of the case), case history,

decisions and status information (Public Access to Court Electronic Records… 2020), electronic support in electronic publication forms (e-posting) and court filing systems in electronic form (e-filing) (Mansurov 2018), obtaining information about a particular court document or its sample by registering in the system, finding the necessary information by the case number, judge's name, plaintiff, defendant or other categories (Public Access to Court Electronic Records… 2020). The procedure for filing documents with the court is noteworthy, since this form of filing documents with the court in electronic form is free, that is, without paying a court fee or state fee. Submission of documents by filling in a standard dossier (also in electronic form), which indicates the case number to which the document belongs, information about the person, submits it, etc. deserves attention as well (Fersini et al. 2013).

– diversification of the two main ways of filing applications with the court in electronic form by uploading them to the e-mail of the court and/or sending via electronic form (Germany) (Branovitsky 2010);

– use of forms of claims on the court website, which can be obtained without registration, detailed regulation of filling out, sending to the addressee (court), which records the date and time of its receipt, considers the claim, affixing the seal and unique number, return to the claimant, electronic document flow (England) (E-Justice: Current State… 2020).

– the use of a digital signature of documents transmitted electronically and a certified electronic address that each user must have, the exchange of data and electronic documents that are legally binding, digitally signed and filled in using unique and encrypted data transmission channels to create an electronic procedure alternative to the conventional "paper-based" one (Italy) (Electronic civil proceedings… 2019), etc.

UNIFIED JUDICIAL INFORMATION AND TELECOMMUNICATION SYSTEM (UJITS)

According to the Civil Procedural Code of Ukraine (2004), the communication system allows users submit procedural, other documents, and perform other procedural actions in electronic form solely by means of the Unified Court Information and Telecommunication System (UJITS) using their own electronic digital signature, equivalent to their handwritten signature, in accordance with the Law of Ukraine "On Electronic Digital Signature", unless otherwise stipulated by this Code (Part 9 of Article 14). Formally, information transmitted electronically is considered reliable if it is certified by a qualified electronic signature or electronic digital signature. In particular, there are occasions in case law when individual lawyers and other representatives orient their clients, instead of issuing a simple power of attorney to represent interests in court, to issue general powers of attorney on their behalf. In the same way, such persons can ask their clients to give them

access to electronic signatures, and ordinary citizens (whose "computer literacy" is far from being at the level of qualified users), without understanding the consequences (as with general powers of attorney), will provide relevant information. Family members of the owner of the signature also have access to such electronic signatures, which is especially dangerous in cases of disputes arising from family legal relations (Full implementation of the UJITS… 2019).

In other words, there is an urgent need for additional means of verifying the authenticity of information transmitted electronically (for example, by scanning a face or fingerprints through a webcam to identify a person, using an electronic signature, using special technical means (document cameras) to study and verify written and physical evidence, etc.). The introduction of elements of e-justice into the national mechanism for the protection of human rights should be carried out gradually. First of all, it is necessary to develop and put into operation software that would allow to identify a person using an electronic signature and check the admissibility of electronic evidence, as well as ensure to prompt two-way communication between the court, litigants and all other interested parties using electronic ICT (Politis et al. 2018).

In Ukraine, the concept of "Electronic Court" was developed in 2012 by the State Enterprise "Information Judicial Systems". Development of an e-court system in Ukraine aims to build a set of technical solutions. In order to complete the objectives, the State Judicial Administration of Ukraine adopted a number of regulations, on the basis of which a number of measures were taken. As of today, the Cabinet of Electronic Services (Cabinet of electronic services 2020) provides for the following possibilities:

1. Payment of court fees online (on the official web portal Judiciary of Ukraine (2020));

2. Obtaining information on the stages of court proceedings (on the official web portal of the Judiciary of Ukraine (2020), the users of the portal are enabled to view/search/print information about the stages of court proceedings);

3. Obtaining information from the Unified State Register of Judgments – (The only state register… 2020, Law of Ukraine No. 3262-IV… 2005). This registry is an automated system for collecting, storing, protecting, accounting, retrieving, and providing electronic copies of court decisions;

4. E-mailing procedural documents to litigants. This refers to the ability to receive procedural documents in electronic form in parallel with hard copies of the documents. To obtain procedural documents in electronic form, you must: firstly, register in the electronic document exchange system between the court and the litigants (open an electronic court mailbox), available on the official web portal of the Judiciary of Ukraine at mail.gov.ua; secondly, apply to the court for the receipt of procedural documents in

electronic form, which must be printed on the official web portal of the Judiciary of Ukraine. The procedural documents in the relevant case, issued after the filing date of the said application to the court, will be sent electronically to the registered e-mail address of the litigant in the mail.gov.ua domain, specified in the application;

5. Sending summons as SMS. That is, litigants have the opportunity to use the benefits of electronic court, but not all of them are still implemented and not all running programs are widely used. Thus, the ability of the litigants and the court to file procedural documents in electronic form is significantly inhibited by the technical equipment of small courts, and on the other hand, by the inadequate receipt of an electronic digital signature by participants in the process, even by professional, for example, lawyers.

VIDEOCONFERENCE IN THE PROCEDURAL FORM OF A COURT HEARING

Effectiveness of the right to judicial protection guaranteed by Art. 55 of the Constitution of Ukraine depends directly on the quality of regulation of the judicial procedure. This procedure, in addition to impartiality and fairness, must also meet the criteria of efficiency. The latter can be greatly facilitated by the use of videoconferencing systems in court hearings. The European Court of Human Rights has repeatedly stated in its decisions that the use of videoconferencing by the courts meets the requirement of fairness (Marcello Viola v. Italy 2007, Vladimir Vitalyevich Golubev against Russia 2006, Vladimir Vasilyev v. Russia 2012, Sayd-Akhmed Zubayrayev v. Russia 2012).

In accordance with recommendations of the Committee of Ministers of the Council of Europe, CM/Rec (2009)1 to the Member States of the Council of Europe on e-democracy of 18.02.2009, e-justice refers to the use of ICT in the administration of justice by all interested parties in the legal field so as to improve efficiency and quality of public services, in particular for individuals and businesses. It includes electronic communication and data exchange, as well as access to judicial information. Since the judiciary is a key component of democracy, e-justice constitutes a crucial facet of e-democracy. Its main purpose is to improve the efficiency of the judiciary and the quality of justice. Access to justice is one of the aspects of access to democratic institutions and processes (Recommendations of the Committee… 2015). One of the reasons for delays is the when the participant of the trial cannot come to the court session at the appointed time. Consequently, videoconferencing can objectively be an effective tool to save time and money on travel (or delivery) to court (Bohunov 2012).

The Civil Procedural Code of Ukraine stipulates that a party to a case may participate in a court hearing in a videoconference mode at a court-appointed courtroom or outside a courtroom. Article 212 of the Civil

Procedural Code of Ukraine stipulates that participants of a case are entitled to participate in a court hearing in the videoconference mode outside the court premises, provided that the court has the appropriate technical capacity, which the court indicates in the decision to open proceedings in the case, except when the appearance of this party to the court hearing was found to be binding by the court. Therefore, at the request of a party to the case, the court can order that they participate in a court hearing in videoconference mode. Thus, this rule specifies that initiators of participation in a court hearing in the videoconference mode outside the court premises can be only parties to the case. The parties to the case participate in a court hearing in the videoconference mode outside the court premises using their own technical means and electronic digital signature in accordance with the requirements of the Regulation on the Unified Judicial Information and Telecommunication System.

In accordance with Part 5 of Article 212 of the Civil Procedural Code of Ukraine, a court can order a that a party to the case participate in a court hearing in a videoconference mode at a court-appointed court room. It should be noted that the said provisions are formulated by the legislator so that they can be interpreted ambiguously. They may be perceived, firstly, by considering the provisions set forth in the previous parts of this rule (part 1-4 of Article 212 of the Civil Procedural Code of Ukraine) as the right of a party to a court hearing in a videoconference mode not only outside the court premises, but inside its premises as well and, accordingly, the authority of the court is aimed at providing the participant of the case with this right with determination of the premises of the particular court.

Secondly, as provisions conveying an independent meaning that is not related to the previous parts set forth in Article 212 of the Civil Procedural Code of Ukraine, they can be interpreted in such a way that the law has not determined on what grounds the court can make an appropriate decision. Since the list of grounds is absent, we can conclude that the court may at any time decide on the participation of any trial participant in videoconference mode without any reason and without such person's consent. Furthermore, the law does not even oblige the court to establish the possibility of the person regarding whom the decision was made to attend a hearing via videoconference, which is also a restriction on the rights of participants of the case.

Therefore, in the part of the analysed provisions, the Law should be improved, namely: to determine the exclusive list of the grounds on which the court shall have the right to decide *sua sponte* on the participation of litigation parties or participants in the hearing using a videoconference mode on its own initiative (Zhukov 2012). One cannot agree with such a statement, since it is not legally possible to foresee all cases in the presence of which the court must initiate a court hearing in the videoconference mode. In our

opinion, it is inappropriate to provide the court with the opportunity to take the initiative in this instance. The Civil Procedural Code of Ukraine does not provide for cases where a court hearing should be held in videoconference mode. Consequently, the court will be difficult to reasonably justify the need for videoconferencing without a request from a person (Kuznetsov & Korchagin 2019).

In particular, it was noted that there is no list of grounds on which the court can decide on the participation of one or another party in the hearing via videoconference. Therefore, obtaining consent from the participant is not necessary, which, of course, affects the interests of that participant. It is also noteworthy that the current Civil Procedural Code of Ukraine contains no legal provisions that would provide for the obligation of the court to notify such a participant in advance about the hearing in on-line mode. Also, the consequences of the personal appearance of such a person for participation in the court session are not provided for. It appears that the absence of such provisions in their entirety constitute the basis for possible abuse on behalf of individual judges and their interference in the work of videoconferencing.

Proceeding from this, we believe that holding a court session in the videoconference mode is possible if the party or another participant in the procedure files a corresponding request or at the initiative of the court subject to the consent of the party or another participant in the procedure. In their aggregate, such provisions would serve as the limit for the court to exercise discretion in resolving the issue of holding a court hearing via videoconference.

An innovation of the Civil Procedural Code of Ukraine in the wording of October 3, 2017 is the opportunity to participate in a civil proceeding in the mode of a videoconference on cases regarding the recognition of an individual as having no legal capacity. A person in relation to whom such category of cases is being considered can participate in the consideration of the case in the videoconference mode from the psychiatric or other medical institution wherein it is located (Article 299 of the Civil Procedural Code of Ukraine). Upon deciding on this matter, the court considers the state of health of such an interested person. The court indicates this in the decision on the opening of the proceedings. The possibility of participating in the consideration of the case in the videoconference mode is also allowed in cases of the provision of psychiatric care by force.

Given the state of health of the person in respect of whom this issue is being resolved, its participation in the consideration of the case may take place in a videoconference mode from the psychiatric care institution wherein the person is located. At the same time, the Civil Procedural Code does not determine the risks of the technical impossibility of participating in a videoconference, interruption of communication in these categories of cases. They may not be subject to provisions on videoconferencing outside the

courtroom. If such exist, the court should, in our opinion, postpone the consideration of the case in order to exclude the possibility of the influence of these institutions on the exercise of the right to participate in the consideration of the case by videoconference by the aforementioned persons, as well as to ensure the impossibility of abuse on their part. A participant in the trial held in pre-trial detention centre or in a penal institution may take part in the court hearing in the videoconference mode from a place where such participant is detained. In this case, this form of participation in the court hearing may be determined at the initiative of the court or at the request of the participant in the process. The solution to the question of satisfaction of the application for participation in the court session by using video conferencing systems is associated with a combination of both actual organizational actions and procedural actions that are executed as judicial acts.

One of the conditions for participation in a court hearing in the videoconference mode in accordance with part 1 of Article 212 of the Civil Procedural Code of Ukraine is the availability of appropriate technical capabilities in court. Therefore, effective interaction between the courts to identify technical capabilities for video communications is required. The court that considers the request must receive such information; the applicant is free from the performance of these actions. The court seeks information about the availability of an operating videoconferencing system and other circumstances that give an idea of the presence or absence of an objective possibility of holding a court hearing in this way. Upon considering a request, a judge will have to answer a number of questions, including: whether a person has the right to file such a petition; whether it was filed in a timely manner and what are the consequences of a late filing, if any; whether the court, with the assistance of which the applicant requests to hold a hearing, has a technical opportunity for this.

The technical means and technologies used must ensure the proper quality of the image and sound. Trial participants should be given the opportunity to hear and see the course of the hearing, to ask questions and receive answers, to exercise other procedural rights conferred on them, and to perform procedural obligations. The court postpones consideration of the case in court hearing in the event of technical difficulties that prevent the person from participating in the court hearing using videoconference mode, except in cases when the court hearing may take place without the participation of such person.

A request for videoconferencing may be submitted both by the participant and by some other participant in the trial, no later than five days prior to the court hearing. At the same time, the procedural possibilities of exercising the right to file such a petition are virtually unequal for the stated subjects of the civil procedure, despite the uniformity of the temporal limits

of its implementation. The summons to attend court must be served no later than five days prior to the hearing and the notice must be served in advance (Part 5 of Article 128 of the Civil Procedural Code of Ukraine). Therefore, subjects who receive a notice no later than five days prior to the court hearing, which is not a violation of the law, will be unable to exercise their right to participate in the court hearing in videoconference mode. The above points to the necessity of legally establishing equal procedural factual possibilities of exercising this right for all participants of the civil procedure who are endowed with this right. In our opinion, such inequality is conditioned upon the legislator's determination of different terms of notifying these subjects about the time and place of the court hearing.

Directly, the process of organizing a court hearing in the form of a videoconference in the court room relies simultaneously on two courts: the court hearing the relevant litigation and the court of the territorial location of the participant who chose this type of participation in the hearing. Pursuant to this order, the person who made such a request applies to the designated court, given the right and possibility to use appropriate technical devices for the purpose of participation in the court hearing.

In accordance with Part 5 of Article 7 of the Civil Procedural Code of Ukraine, in the event that all participants of the case take part in the court hearing in the videoconference mode, the course of the court hearing is mandatorily broadcasted on the Internet, except for holding a closed court hearing. According to Parts 2, 3 of Article 69 of the Civil Procedural Code of Ukraine, in the absence of objections from the participants in the case, a witness may participate in a court hearing in the videoconference mode. The court may allow a witness to attend a videoconference hearing, regardless of the objections of the parties to the case, if the witness is unable to appear in court due to illness, elderly age, disability or for any other valid reason. In the event of failure to appear in court and participate in a court hearing in a videoconference upon a court summons, the witness shall be obliged to notify the court in advance. With regard to the participation of such subjects as an expert, a subject matter expert, a specialist and a translator in a videoconference hearing, such participation is possible in the absence of objections from the parties to the case. Witness, translator, specialist, expert may participate in the videoconference court hearing exclusively in the courtroom.

Special rules are established for the use of videoconferencing in cases of recognition of an individual as having no legal capacity and the provision of compulsory psychiatric assistance (Articles 295-300, 339-342 of the Civil Procedure Code of Ukraine) concerning the guarantee of the right to attend a court hearing by persons having mental disorders. For example, Article 299 of the Civil Procedural Code of Ukraine clearly states that the court is considering cases with the participation of the person in question, including

an alternative opportunity to personally attend a court hearing in a videoconference mode from a psychiatric or other medical institution wherein such person is located, as indicated by the court in the decision to commence the proceedings. Decision on participation in the hearing in the videoconference mode will then depend on the individual's health condition. Conducting court hearings in videoconference mode is aimed, first of foremost, at modernizing the court procedure, compliance with the terms of consideration of cases and facilitating the parties' participation in it. Upon comparing the legal regulation of holding court hearings in videoconference mode in Ukraine and the EU, it should be noted that the Civil Procedural Court of Ukraine regulates them at the proper level, but the issue of practical implementation of certain legal provisions remains open.

ELECTRONIC ORDER FOR PAYMENT PROCEEDINGS

Considering the development of information technology and the experience of European countries, there is an urgent need to introduce facilitated means of communication between the parties and the court into Ukrainian procedural legislation, including the use of electronic media and information technology (automated order for payment proceedings), the ability to use electronic communications on the service of an order to the debtor by fax or e-mail, the introduction of a uniform application form for a court order (standard forms) (Bobryk 2015). That is why issues of introducing electronic judicial technologies are being developed in Ukraine through introduction of electronic writ proceedings tools in particular.

The argument in favour of the introduction of this tool was an example of its successful implementation in the Republic of Poland, which in the last 5 years, through electronic order for payment proceedings, processed 1.8 million cases for a total amount of 40 billion PLN (Explanatory Note… 2018). In Germany, the user, with help of the system software module, can select a form that corresponds to the actual legal relationship between the parties, fill it out with the necessary content and sign with electronic signature. In doing so, the applicant receives the protocol of the application and the order itself in electronic form to their inbox. In addition, these systems leave the possibility of a conventional written appeal (Branovitsky 2011).

The project envisages that the consideration of civil cases using the procedure of electronic order for payment proceedings should be attributed to the jurisdiction of the Brovarskyi District Court of Kyivska Oblast. Such a proposal is sufficiently in line with the experience of the Republic of Poland, since civil money disputes and claims, including commercial and labour disputes, are considered on-line in the 6th Civil Division of the Lublin Western Regional Court, regardless of the amount of the claim. Its jurisdiction extends to the entire territory of Poland irrespective of the place of residence and registration of the defendant. The jurisdiction of this court does not include

cases involving non-pecuniary claims and family disputes (Ruda & Shutko 2010). The use of e-justice in civil cases will not only help protect the rights and interests of the person, but also speed up the hearing of such cases.

The Draft Law provided for sufficiently affordable court fees for the issuance of an electronic court order. Thus, for the issuance of an electronic court order, which is submitted by a legal entity or an individual entrepreneur – 0.3 of the minimum wage, an individual – 0.1 of the minimum wage. The purpose of establishing such a sufficiently liberal claim to litigation is, first and foremost, to favor this particular alternative to a claim.

The implementation of this mechanism is quite promising, since it involves the creation and functioning of an automated system of electronic order for payment proceedings, payment of court fees for filing an application for electronic court order using payment systems in real time, submission (sending) of procedural documents, committing procedural actions in electronic for using electronic digital signature, interaction between the automated electronic filing system and information systems of government, including automated document flow system of the court, occurrence of electronic form of court order as a special form of judgment issued by the court. The project of electronic order for payment proceedings was proposed to be considered as an independent type of proceeding, along with action, separate, and writ proceedings, which cannot be considered correct in the context of understanding the structure of the civil procedure. Considering the derivative nature of electronic order for payment proceedings, it is logical to speak of the latter being referred to as a type, a special procedural form of order for payment proceedings, or the distinguishing of another, independent type of proceedings with a different name.

The form "electronic court order" is not quite correct, since it must be executed "in writing in electronic form" with an electronic digital signature, which is quite difficult to imagine using information technology. In this case, the second copy is made in writing in paper form and issued to the claimant after the entry of the electronic court order into legal force for presentation for execution. Due to the fact that this form of a court decision involves the usual written form, we should speak about a court order, without its characterization as electronic, since this is not an electronic court order, but a court order issued based on the results of an electronic court order. The title will be correct in content only if the electronic court order could refer to execution in electronic form with access to the contents of the order to the public and/or private executor with the possibility of verifying decisions in the Unified State Register of Court Decisions. At present, this draft law has been rejected by Parliament, but it has not lost its relevance and it would be rather fair to return to this issue in the near future.

CONCLUSIONS

In view of the above, it should be noted that the introduction of electronic justice is a step towards the modernization of national procedural law, an attempt to introduce elements of the standards of a unified European civil procedural law, but not sufficiently systematic, appropriate and consistent with the applicable legislation. Effectiveness of the right to judicial protection guaranteed by Article 55 of the Constitution of Ukraine depends directly on the quality of regulation of the litigation. This procedure, in addition to impartiality and fairness, must also meet the criteria of efficiency. The latter can be greatly facilitated by the use of videoconferencing systems in court hearings.

E-justice is primarily aimed at restoring trust in court. The purpose of the introduction of e-justice should be to ensure the accessibility of justice, improve the quality of the work of the courts and save considerable public money. In particular, access to justice will be ensured through the exchange of electronic documents between all parties to the trial, the reduction of court costs for postal items and the production of paper documents, the ability to hear the case in videoconference mode. The implementation of the e-justice project is one of the directions of improving the efficiency of justice in Ukraine. With the development of science and technology, information and communication technologies are becoming increasingly important. We use a variety of technical devices every day to share information, read news, study, rest, and work. On the Internet we can do business, advertise our services, pay the bills, conclude contracts. The state, in its policy, tries to promote rapid development of technology and actively implements online services of implementation of legally significant actions and free access to public registers.

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