DOI: https://doi.org/10.34069/AI/2021.44.08.21
How to Cite:
Marycheva, O., Kucher, V., Kurylo, T., Demkiv, R., & Grabar, N. (2021). Peculiarities of using information technologies through the prism of the principles of civil proceedings. *Amazonia Investiga*, *10*(44), 220-229. https://doi.org/10.34069/AI/2021.44.08.20

Peculiarities of using information technologies through the prism of the principles of civil proceedings

Особливості використання інформаційних технологій через призму принципів цивільного судочинства

Received: July 20, 2021 Accepted: September 10, 2021

Written by:
Olena Marycheva[82]
https://orcid.org/0000-0002-7204-9925
Vitalii Kucher[83]
https://orcid.org/0000-0003-0877-5735
Tetyana Kurylo[84]
https://orcid.org/0000-0003-0039-5121
Roman Demkiv[85]
https://orcid.org/0000-0003-3867-7968
Nataliia Grabar[86]
https://orcid.org/0000-0001-5533-6765

Abstract

The aim of the study is to reveal the features of the use of information technology in civil proceedings in terms of compliance with its basic principles, because the digitalization of judiciary through the implementation of modern IT technologies in Ukraine is one of the most effective ways to improve the level and quality of administration, of justice, fulfillment of its tasks. Fair, impartial and timely consideration and resolution of civil cases is impossible without adherence to its principles, which are key guidelines in the formation of procedural law.

The study was conducted using general and special methods of scientific knowledge: comparative, historical and legal, formal-logical, dialectical, system-structural.

After analyzing current and future legislation, doctrinal approaches, best practices of foreign countries, the authors revealed the benefits of implementing information technology in civil proceedings and their impact on the realization of such principles as: rule of law, equality of all

Анотація

Метою дослідження є розкриття особливостей використання інформаційних технологій у цивільному судочинстві в розрізі дотримання основних його засад, адже цифровізація судової системи шляхом впровадження сучасних IT-технологій в Україні є одним з найбільш ефективних способів підвищення рівня та якості здійснення правосуддя, виконання його завдань. Справедливий, неупереджений та своєчасний розгляд і вирішення цивільних справ є неможливим без дотримання його принципів, які є ключовими орієнтирами у формуванні процесуального права.

Дослідження проведено із використанням загальнонаукових та спеціальних методів наукового пізнання: порівняльного, історико-правового, формально-логічного, діалектичного, системно-структурного.

Проаналізувавши чинне та перспективне законодавство, доктринальні підходи, передовий досвід зарубіжних країн, автори

[82] Postgraduate student of the Civil Law Disciplines Department, Institute of Law, Lviv State University of Internal Affairs, Lviv, Ukraine.
[83] Candidate of Law, Associate Professor, Head of the Theory of Law, Constitutional and Private Law Department, Institute of Specialist Training for National Police Units, Lviv State University of Internal Affairs, Lviv, Ukraine.
[84] Candidate of Law, Associate Professor, Professor of the Theory of Law, Constitutional and Private Law Department, Institute of Specialist Training for National Police Units, Lviv State University of Internal Affairs, Lviv, Ukraine.
[85] Candidate of Law, Associate Professor, Associate Professor of the Theory of Law, Constitutional and Private Law Department, Institute of Specialist Training for National Police Units, Lviv State University of Internal Affairs, Lviv, Ukraine.
[86] Candidate of Law, Associate Professor, Associate Professor of the Civil Law Disciplines Department, Institute of Law, Lviv State University of Internal Affairs, Lviv, Ukraine.

participants before the law and court, publicity and openness of the trial, reasonable time for consideration of the case by court, adversarial parties.
On the basis of the conducted research generalizations and conclusions regarding the state and prospects of application of information technologies in civil proceedings through a prism of its principles are made.

Keywords: electronic proceedings, civil proceedings, «Electronic court», information technologies, principles of civil proceedings.

розкрили переваги впровадження інформаційних технологій в цивільне судочинство та їх вплив на реалізацію таких принципів як: верховенство права, рівність усіх учасників судового процесу перед законом та судом, гласність і відкритість судового процесу, розумність строків розгляду справи судом, змагальність сторін.
На основі проведеного дослідження зроблені узагальнення та висновки щодо стану та перспектив застосування інформаційних технологій у цивільному судочинстві через призму його принципів.

Ключові слова: електронне судочинство, цивільний процес, «Електронний суд», інформаційні технології, принципи цивільного судочинства.

Introduction

The current stage of human development is characterized by the rapid development of global information infrastructure. The development of information technology is one of the aspects of global transformation, including public authorities. The purpose of such transformations is to create a sole information space, which will be a set of databases and data banks, technologies for their maintenance and use, information and telecommunications systems and networks that will operate on the basis of common principles and general rules to ensure information interaction of organizations and individuals, as well as satisfaction of their information needs.

Taking into account the current information needs of society, it becomes clear that without the implementation of information technology and automation of certain processes in court, further development of the justice system is impossible. «Electronic justice» provides the use of information and communication technologies in the process of realization of procedural law. Novelties of the judiciary should be aimed at expanding the availability of justice, speeding up and optimizing the litigation, improving its quality and efficiency, achieving transparency and openness of the judicial system.

The obvious advantages of digitalization of justice are reduction of court costs of the parties to the case, avoidance of possible omissions of procedural deadlines, increase of convenience and speed of processing of submitted procedural documents, their registration, etc.

The implementation of information technology in the judiciary, in particular civil proceedings, will improve the quality of court work, speed up and facilitate the work of its employees, better ensure proper access to justice, help fulfill the tasks of civil proceedings, and adhere to its basic principles: equality of all participants in the trial before the law and the court, publicity and openness of the trial, its complete fixation by technical means, reasonable timeliness of court proceedings, adversarial proceedings, dispositiveness, etc.

Literature review

The issue of implementation of information technologies in the proceedings, compliance with the basic principles of civil procedural law was paid attention by such scholars as Khanyk-Pospolitak R. (2017), Komarov V.V. (2012), Sakara N.Y. (2006), Samborska O. (2013), Uhrynovska O. (2017) Hyliaka O.S. (2020) and others. The study of the use of the latest advances in electronic technology in the context of electronic proceedings is devoted mainly to certain aspects of this issue.

Thus, R. Khanyk-Pospolitak (2017) argues that modern information technologies are rapidly penetrating various spheres of public relations. Legal relations in the field of justice are no exception. Justice is the tool through which ensures the realization of one of the fundamental human rights - the right to a fair trial, which is enshrined in Art. 6 of the European Convention on Human Rights.

Quite the right approach has chosen Komarov V. V. (2012) which sets out the principles as basic provisions enshrined in

international law and current legislation, on which procedural law and the practice of its application should be based. According to O. Samborska (2013), the main task of the «electronic court» is to improve the working conditions of court employees, as well as to ensure fast and convenient access to justice. An e-court is a court whose doors are open 24/7 and where there are no queues. This statement confirms the priority of the direction of improvement and widespread use of information technology, which will help in fulfilling the tasks assigned to civil proceedings.

Scientists V.V. Komarov and N.Y. Sakara (2007) identifies the following main components of the right to a fair trial: 1) unencumbered by legal and economic barriers access to justice; 2) due court procedure; 3) public trial; 4) consideration of the case by an independent and impartial court established by law; 5) a reasonable time for trial. O. Uhrynovska (2017) argues that the advantages of electronic exchange of documents between the court and the participants in the trial is saving of cost and time. In addition to significantly reducing the time required to deliver a court summons, the implementation of electronic document management will save time spent by court employees on filling out summonses, packing letters, printing and sending procedural documents. The advantage of electronic exchange of documents is also the proper confirmation of the fact of receipt of a court summons or procedural document by a participant in the trial.

Also, we cannot disagree with some statements of O. S. Hyliaka (2020), who considers the transition to full paperless document management impossible, as it will actually deprive almost half of the population of access to justice, as according to various data only about 60% of population of our state have access to the Internet. Scientists are considering the option of imposing all measures to transform paper documents on the case in their electronic form to the court. However, the equipment that courts have today does not allow them to work with a significant amount of electronic cases.

From the above it can be seen that currently there is no comprehensive approach to the implementation of information technology in the court, which leads to incomplete solutions to the problem of such implementation.

Methodology

In the process of research general scientific and special methods of scientific cognition will be used, in particular: comparative, historical and legal, formal-logical, dialectical, system-structural, dogmatic, method of modeling. The historical and legal method will be used in the study of the stages of development of the use of electronic technologies in civil proceedings, as well as in determining the directions of development of legislation that defined the principles of e-justice in the national and international legal system; formal-logical method will contribute to the study of the legal nature of the use and implementation of information technology in civil proceedings; comparative method - in the study of foreign experience of litigation in electronic form. The use of the system-structural method provided an opportunity to unify and systematize empirical materials on the use and implementation of electronic technologies in civil proceedings. The modeling method allowed not only to identify problems in regulating the use of information technology in civil proceedings, but also to suggest optimal ways to solve them and prevent their occurrence in the future.

Results and discussion

Consideration of the implementation of information technology in civil proceedings through its principles as a basic principle is essential, as the principles are the starting points enshrined in international law and current legislation, on which should be based procedural law and practice of its application (Komarov & Sakara, 2007).

One of the basic principles of constitutional state and the fundamental foundations of the functioning of modern democracies in the world is «the rule of law» principle, wich is foundation of another legal principle (Maikut, Andrusiv, Yurkevych, Dutko, & Zaiats, 2020).

Today in science there are different views on the provisions in which the content of the rule of law in procedural relations is realized.

The comprehensiveness of the rule of law is enshrined at the international and domestic levels.

The Declaration of the High-Level Meeting of General Assembly on the Rule of Law at the international and national levels states: «We recognize that the rule of law applies equally to

all States and international organizations, including the United Nations and its main authorities, and that respect and encouragement for the rule of law and justice should guide all activities and ensure predictability and legitimacy of any action. We also recognize that all persons, institutions and authorities (both public and private), including the state itself, have a duty to obey fair, impartial and equality laws and have the right, without distinction, to equal protection of the law." (United Nations, 2012).

According to the European Court of Human Rights, the rule of law is a concept that is an integral part of all articles of the Convention, and the Court uses not only the term «prééminence du droit» (rule of law) but also the term «etat de droit» (constitutional state in French) (Case of Stafford v. the United Kingdom, 2002)).

In the case law of the European Court of Human Rights, as summarized in a report drawn up during Sweden's chairmanship of the Committee of Ministers (CM (2008) 170), the concept of the rule of law is applied to a number of issues using a fairly formal approach, starting with the principle of legality, in the narrow sense, but with the development of various aspects of due court process (with due regard for procedural law) and legal certainty, as well as the separation of branches of power, including the judiciary, and equality before the law (Council of Europe 2008).

In Golder v. The United Kingdom (1975) ECHR (Reports of the European Court of Human Rights), the Court stated that «the rule of law is unlikely to be imagined in the absence of access to justice».

The International Commission of Jurists has long conducted systematic research on the rule of law and considers the very concept of the rule of law as a fundamental principle for protecting people from the arbitrariness of state power and as a way to protect human dignity. Similarly, the International Bar Association has adopted the rule of law as a key concept for all legal practitioners.

Article 3 of the Constitution of Ukraine states that human rights and freedoms and their guarantees determine the content and direction of state activity (The Constitution of Ukraine No 254k / 96, 1996).

The principle of the rule of law is enshrined not only in the Constitution of Ukraine, but also in the Law of Ukraine «On the Judiciary and the Status of Judges» and other acts of procedural legislation.

The principle of the rule of law is the basic provision on the basis of which the constitutional state is built and the judiciary is functioning (Law No 1402-VIII, 2016).

As a member of the Council of Europe, Ukraine has also recognized the principle of the rule of law, committing itself to ensuring the realization of human rights and fundamental freedoms by all persons under its jurisdiction (Statute of the Council of Europe, 1949).

Closely related to the rule of law is **the principle of access to justice,** which is the basis of a fair trial.

Access to justice for every citizen is a guarantee of citizens' trust in the court and the basis of the concept of a fair trial. The Judgment of the Constitutional Court of Ukraine of 12 April 2012 № 9-rp/2012 states that «No one may be restricted in the right of access to justice, which includes the possibility of a person to initiate a trial and participate directly in the trial, or deprived of such rights» (Decision № 9-рп/2012, 2012).

In addition, as examined above, the rulings of the European Court of Human Rights emphasize that one of the parts of the rule of law is the availability of laws that must be quite simple and clear, understandable and predictable, and that there is access to justice. Thus, the right to a fair trial is ensured by the availability of justice.

Every day, citizens are faced with the issue of filling documents in court, which includes the process of registration, printing of documents, certification of copies of evidence, registration of a cover letter or a proper list of attached documents, sending the letter by mail.

The same applies to acquaintance with the materials of the case, for this person must first write a request for acquaintance with the materials of the case, submit it, agree on a date of possible acquaintance, which may be different from the date of submission of the request. This issue is quite complicated if we assume that the case is pending in another city or region.

In our opinion, the approach to filling paper documents is outdated and requires significant time and resources.

The use of information technologies in the part of filling, exchange of procedural documents, acquaintance with case materials can help to solve this problem.

We stand in solidarity with the approach expressed by O. Uhrynovska that the advantages of electronic exchange of documents between the court and the participants in the process are saving of cost and time. In addition to significantly reducing the time required to deliver a court summons, the implementation of electronic document management will save time spent by court staff on filling out summonses, packing letters, printing and sending procedural documents. The advantage of electronic exchange of documents is also the proper confirmation of the fact of receipt of a court summons or procedural document by a participant in the process (Uhrynovska, 2017).

Thus, the use of information technology in terms of filing, exchanging procedural documents, acquaintance with case materials will significantly reduce the spending of time and resources, while being able to ensure the right to a fair trial, which is ensured by access to justice, which is part of the rule of law.

At the same level as the rule of law and access to justice, **the principle of equality before the law and the courts** plays an important role.

According to Article 6 of the Civil Procedural Code of Ukraine, the court is obliged to respect the honor and dignity of all participants in the trial and administer justice on the basis of their equality before the law and the court, regardless of race, skin color, political, religious or other beliefs, sex, ethnicity and social origin, property status, place of residence, language and other characteristics (Law No 1618-IV, 2004).

The principle of equality also implies the need for equal access of all persons to the necessary databases and registers, for example legislation and case law. Access to legal information contributes to the implementation of the principle of publicity and openness of the trial, and is an important aspect of ensuring the transparency of justice.

Such legal information can be obtained through the use of search engines. These include: the official portal of the Verkhovna Rada of Ukraine, the League-Law database, the official web portal of the Judiciary of Ukraine, the Unified State Register of Court Decisions, within which the e-Court project operates, etc.

Importantly, in 2011 the Consultative Council of European Judges (CCJE) was tasked with developing and adopting an Opinion on the de-materialization of court proceedings. In drafting this Opinion, the CCJE took into account relevant acts of the Council of Europe, in particular the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data of 1981 and the European Judicial System Report (European Edition, 2010) of the European Commission for the Efficiency of Justice (CEPEJ) (namely, Chapter 5.3 on information and communication technologies in courts). Other international documents were also taken into account, in particular the European Union Strategy for Justice and the European Union Data Protection Directive, Directive 95/46/EU of the European Parliament and of the Council on the protection of individuals with regard to the processing of data and the free circulation of such data.

According to the recommendations of the Committee of Experts on the automation of judicial procedures of the member states of the Council of Europe the implementation of information technology should be carried out at all stages of judicial proceedings, including online (Council of Europe, 2011).

In the context of the development of information technologies and their impact, the principle of equality before the law and the court implies the need to ensure equal access to e-justice for all parties, regardless of their location or residence, taking into account both rural and urban areas. Otherwise, a certain inequality will be created which will only intensify, and from now on from the point of view of access to modern technologies.

It is important to note that the use of information technology in civil proceedings cannot be considered outside the context **of justice openness and transparency of the judiciary in general.**

Today, openness of justice is achieved through the use of such information technologies as: automated application distribution system, video conferencing system, audio recording system of court hearings, functioning of official court websites (through the website of the Judiciary of Ukraine), etc.

These factors allow to solve the problem of timely provision of a wide range of relevant information to an indefinite circle of persons who are interested in obtaining it.

Some researchers note that openness almost completely nullifies any opportunities for misuse, because if all court decisions are freely available to the public, it is unlikely that anyone will dare to violate the unity of judicial practice (Chucha, 2014).

The implementation of information technology in the judicial process will more effectively build a system of organizational and legal relations within the system of courts of general jurisdiction, as well as in the relationship between the court and participants in the process, accelerate the circulation of court documents, increase the transparency of the judicial system.

In any case, information technology should be a tool or means to improve the administration of justice, facilitate users' access to the courts and improve the guarantees set out in Art. 6 of the European Convention on Human Rights: access to justice, impartiality, independence of the judge, fairness and reasonable time for consideration of the case (Council of Europe, 1950).

Today, the implementation and proper functioning of the e-justice system is a need of the modern information society, an everyday requirement that is now integral to such concepts as «fair», «effective», «accessible» justice.

However, the implementation of information technology in the courts should not harm the credibility of the judiciary. If the proceedings are perceived by users as a purely technical process without its real and fundamental function, the administration of justice can become fully automated without the involvement of the human factor. Judicial proceedings, first of all, must contain the human factor, because this is about real people and the resolution of their disputes. The most important value of human factor is in assessing the behavior of the parties and their witnesses in court, which is part of the work of a judge (Council of Europe, 2011).

Thus, in the literal sense of Article 6 § 1 of the European Convention on Human Rights, it may appear that it does not expressly enshrine the right of the interested person to resolve a dispute over civil rights and obligations by a court, outlining only the requirements of fairness of trial.

If a person does not have access to justice, other guarantees of the right to a fair trial become unfeasible.

In addition, the right of access to justice must not only be formally recognized but also be «effective», which indicates the need to achieve an effective level of judicial protection. In this regard, N.Y. Sakara noted that although the right of access to justice is only one aspect of the right to a court, it is this right that makes it possible to implement other requirements of a fair trial (Sakara, 2006).

V. V. Komarov and N.Iu. Sakara identifies the following main components of the right to a fair trial: 1) unencumbered by legal and economic barriers access to justice; 2) due court procedure; 3) public trial; 4) consideration of the case by an independent and impartial court established by law; 5) a reasonable time for trial. (Komarov and Sakara, 2007).

From the above, it is also seen a significant positive impact of **e-litigation on meeting reasonable deadlines**, as information technology not only speeds up the trial, but also has a significant resource to ensure that litigation does not turn into a long process.

The implementation of e-litigation will provide an opportunity for a reasonable time trial for all interested parties, which indicates the prospect of full implementation of the Constitution of Ukraine, the Law of Ukraine «On the Judiciary and the Status of Judges» and procedural legislation.

At present, the consideration of court cases in the context of meeting reasonable deadlines is a really serious problem in the judicial system. The European Convention on Human Rights provides a criterion such as a reasonable time, referred to in paragraph 1 of Article 6 of this document. The complexity of the case, the realization of the different approaches of the judicial authorities to the consideration of specific cases, certain aspects of the applicants' conduct that may have affected the extension of the trial, as well as certain circumstances that justify a longer trial are factors for which the European Court of Human Rights draws attention when clarifying the circumstances of the case and examining the question of compliance of the court procedure with a «reasonable time».

The meaning of the criterion of «reasonable time» is a rather broad concept, and therefore over the years of work the European Court of Human Rights has repeatedly pointed to three established criteria, which determine the «reasonableness» of the time of the case: complexity of the case, the applicant's conduct,

the conduct of the authorities. The rationing of the workload per judge also has a significant impact on the observance by courts of reasonable time limits for consideration of cases. This situation negatively affects the perception of the court in society as a whole, resulting in «standard» decisions with a low level of motivation, which ultimately gives the expected result - lower quality of justice and lowering the status of a judge.

Undoubtedly, electronic proceedings will have a positive effect on the speed of court proceedings, which will allow to adhere to the principle of a reasonable time for consideration of the case.

Ukraine is gradually moving away from such approaches and following the trends of world technological development, moving from paper litigation to more efficient litigation through the use of information technology. In our opinion, e-justice can solve the problem of access to justice, which is one of the components of the rule of law and a separate no less important principle.

To implement the above goals, on May 22, 2003, the Law of Ukraine «On Electronic Documents and Electronic Document Management» was adopted, which established the basic organizational and legal principles of electronic document management and use of electronic documents, defined the concept of electronic document and electronic document management, defined rights, obligations and responsibility of electronic document management entities.

Along with this Law, the Law of Ukraine «On Electronic Digital Signature» was adopted, which defined the legal status of electronic digital signature and regulated relations arising from the use of electronic digital signature, and 05.10.2017 Law of Ukraine «On electronic trust services» (Law No 2155-VIII, 2017).

An important step towards informatization of the judicial system was the approval on December 21, 2012 by the Council of Judges of Ukraine of the Strategic Plan for the Development of the Judiciary of Ukraine for 2013-2015, which identifies access to justice, innovative use of technology and improvement of judicial increase and maintain a high level of trust in the courts as one of the strategic objectives of the judiciary of Ukraine.

Since 2012, the State Judicial Administration has launched a pilot project for the development of electronic justice.

Special regulations that currently introduce certain elements of the «e-court» in a broad sense are the Law of Ukraine «On the Judiciary and the Status of Judges», which obliges the State Judicial Administration of Ukraine to: implement an e-court; execution of measures to organize the exchange of electronic documents between courts and other government agencies and institutions.

With the adoption of the procedural reform, according to which the Unified Judicial Information and Telecommunication System (UJITS) is being implemented in Ukraine. In particular, it will ensure the exchange of procedural documents in electronic form between courts, between the court and the participants in the process, between the parties themselves, as well as the recording of the process and participation in the trial by using videoconference.

Among the obvious advantages of the introduction of UJITS can be distinguished:

- time saving (if a party to the case, a lawyer or another person, who is involved in a case which is decided by a court of another region, it will be more convenient for them to send the necessary documents in electronic form, read the case materials than spend time traveling);
- mobility of work with procedural documents (quick access to case materials at a convenient time);
- money saving (the ability to work with procedural documents in cases in a way that a person who wishes to receive or submit a document without the need to go to a particular court and send the letter by mail);
- implementation of the principles of accessibility and openness of justice (every participant in the process who has passed the registration procedure in the system and has a personal qualified electronic signature will be able to send or view the document), etc.

Undoubtedly, the advantages include the fact that now there is no need to certify copies of documents. This can be done with a qualified electronic signature. After all, when a lawyer certifies any document when submitting it to the court, he takes responsibility for its authenticity. It is also worth noting that, given all the advantages of e-litigation, there are some problems.

First of all, there is a high risk of losing legally important information, lack of «computer

literacy» at the level of qualified users among judges and court staff (which is a serious problem for people, especially for the older generation); development and commissioning (which in our conditions is even more difficult) of the relevant software; necessary technical equipment in the courts. Some researchers note the problem of the implementation of electronic justice through a psychological aspect, because most people still prefer traditional «paper» justice.

The passage of time and technological changes are inevitable and many countries have long ago implemented and actively use them. For example, e-court became part of the US judicial system, providing access to a case information and other information related to litigation (US e-court system). Since 1998, the «Case Management / Electronic Case Files» (CM / ECF) system has been adopted for the implementation of electronic storage in all US federal courts to form a common integrated system, which in turn is complemented by the Public Access to Court Electronic Records system (PACER) to provide access to relevant files on the Internet. The system provides the opportunity to receive explanations on the use of the system, registration, search for the necessary case, submission of application, etc.

For example, the «fedcourt» portal in Australia defines certain ethical principles of electronic litigation. First, participants in the trial (judges, lawyers, jurists) must be experienced, professional and impartial. Australia's e-litigation system stipulates that a minimum of 2,000 cases can be dealt with simultaneously within six months, which are given for consideration of each case. There are separate subsystems for consideration of court cases and appeals, conducting court procedures in the mode of videoconferences with the help of the program.

Among the countries with a continental legal system, the most exemplary is e-litigation in Germany. In particular, the submission of documents, their processing and even decision-making take place in electronic format. In addition, with the help of a paid personal account, it is possible to enter into a discussion with the opponent in writing and challenge the documents provided by him.

Hesse (Germany) opened an electronic legal connection in 2007. On February 23, 2021, «Stuttgarter Nachrichten» announced the current digitization of courts in Baden-Württemberg. Currently, about 1,200 judges can hold digital hearings using the new technology. Even before the coronavirus pandemic, on January 20, 2020, Saxony announced that it would switch to electronic file management and that a pilot project is going to be created.

From January 1, 2026, courts and prosecutors will be obliged to conduct cases electronically. In Bavaria, videoconferences have been used for some time in civil proceedings. This will also apply to other proceedings in the future. However, Bavarian courts need to become even more digital.

According to the provisions of section 128a of the German Code of Civil Procedure (ZPO), negotiations via video and audio transmission are already permissible. It also states that free access to court hearings should be guaranteed to everyone (Frank, 2021).

Conclusions

Summing up, it should be noted that Ukraine, like the whole world, is rapidly moving forward in the direction of building a new information society.

The transition to e-justice will certainly replace the paper routine and facilitate access to justice, as well as make justice more transparent and accessible.

Today, the e-court provides litigants with such opportunities as: 1) payment of court fees online; 2) obtaining information on the stages of court proceedings (there is possibility on the official web portal «Judiciary of Ukraine» for users of the portal to view / search / print information on the stages of court proceedings); 3) obtaining information from the Unified State Register of Court Decisions, which is an automated system for collecting, storing, protecting, accounting, searching and providing electronic copies of court decisions; 4) sending procedural documents to the participants of the trial by e-mail; 5) sending a court summons in the form of SMS-messages; 6) obtaining information about the presence of business entities (counterparties, debtors, guarantors, etc.) in the bankruptcy procedure.

Analyzing the current state of the use of information technology in the Ukrainian judiciary and international experience, we can conclude that the mandatory implementation of electronic litigation is currently impossible due to the unavailability of the Internet, computer literacy of Ukrainian population and other

factors. Such actions can effectively deprive almost half of the population of access to justice, which in turn will have a negative impact on the observance of human rights, the realization of tasks and the basic principles of civil proceedings.

Of course, it is worth emphasizing that, due to the obvious advantages of e-litigation and the coronavirus pandemic, the latter is becoming more popular. This applies mainly to the exchange of electronic documents using QES, court hearings by videoconference. In the conditions of the crisis caused by the pandemic, the introduction of remote proceedings has become especially important - because it is the courts that have felt its importance the most, and technological changes in work, which until recently were unattainable, have become a reality today.

However, in order to develop the use of information technologies in the process of implementing procedural legislation, it is necessary to introduce a single unified information platform for communication between the participants in the process and the court, which for now can be the Unified Judicial Information and Telecommunication System.

International experience shows that the use of electronic technologies in the judiciary promotes more efficient judicial activities, simplifies the exchange of information between courts, participants in the process, as well as other authorities.

Currently, Ukraine is expected to approve the Regulations on the Unified Judicial Information and Telecommunication System, which will be another step towards the introduction of e-justice in all state courts.

The implementation of the Unified Judicial Information and Telecommunication System will allow to fulfill the tasks set before civil proceedings and adhering to its basic principles: equality of all participants in the trial before the law and the court, publicity and openness of the trial, full fixation by technical means, reasonable time of court proceedings, adversarial parties, etc.

Bibliographic references

Case of Stafford v. the United Kingdom Application no. 46295/99. Judgment of the European Court of Human Rights Strasbourg, France. May 28, 2002. Recovered from https://hudoc.echr.coe.int/eng#{%22dmdocnumber%22:[%22698363%22],%22itemid%22:[%22001-60486%22]}

Chucha, S.Iu. (2014). Implementation of the principle of openness of justice in the activities of the arbitral tribunal. Bulletin of Omsk University. Law Series, 2 (23), 114-117. Recovered from https://cyberleninka.ru/article/n/realizatsiya-printsipa-otkrytosti-pravosudiya-v-deyatelnosti-arbitrazhnogo-suda-omskoy-oblasti-pravovye-problemy-i-perspektivy/viewer

Council of Europe (1950). Convention for the Protection of Human Rights and Fundamental Freedoms Recovered from https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=005

Council of Europe (2008). Report of the Committee of Ministers CM(2008)170, November 27, 2008. Strasbourg, France. Recovered from https://www.coe.int/t/dc/files/Ministerial_Conferences/2009_justice/CM%20170_en.pdf

Council of Europe (2011). Conclusion № 14 Conclusion of the Advisory Council of European Judges «Judiciary and Information Technology».. Strasbourg, November 9, 2011. Recovered from https://rm.coe.int/168074816b

Decision № 9-рп/2012, 2012. Constitutional Court of Ukraine. Base of legislation of the Supreme Council of Ukraine, Kyiv, Ukraine, April 12, 2012. Recovered from https://zakon.rada.gov.ua/laws/show/v009p710-12#Text

Frank, J. B. (2021). Digitization of litigation in the judiciary. Rödl & Partner. March 24, 2021 Recovered from https://www.roedl.de/themen/rechtsberatung/digitalisierung-prozessfuehrung-gerichte-streitbeilegung-geschwindigkeit-vertraulichkeit

Hyliaka, O.S. (October, 2020). Some aspects of the functioning of e-justice in Ukraine. Current challenges and current problems of judicial reform in Ukraine. Kyiv: VAITE Publishing House. Recovered from https://law.chnu.edu.ua/wp-content/uploads/2020/12/Zbirnyk-16.10.20.pdf

Khanyk-Pospolitak, R. (2017). Introduction of e-justice in civil proceedings of Ukraine. Law of Ukraine, 8, 122-129. Recovered from https://rd.ua/storage/lessons/38/75412.%D0%A5%D0%B0%D0%BD%D0%B8%D0%BA-%D0%9F%D0%BE%D1%81%D0%BF%D

0%BE%D0%BB%D1%96%D1%82%D0%B0%D0%BA%20%D0%A0.-122-129.pdf

Komarov, V.V. & Sakara, N.Iu. (2007). The right to a fair trial in civil proceedings. Kharkiv: National Academy of Law of the University of Ukraine. Recovered from https://dspace.nlu.edu.ua/bitstream/123456789/247/1/004.htm

Komarov, V.V. (2012). Civil procedural legislation in the dynamics of development and practice of the Supreme Court of Ukraine. Kharkiv: Pravo. Recovered from http://library.nlu.edu.ua/POLN_TEXT/MONOGRAFII_2012/Komarov_Dinamici_2012.pdf

Law No 1402-VIII, 2016. On the Judiciary and the Status of Judges. Base of legislation of the Supreme Council of Ukraine, Kyiv, Ukraine, June 2, 2016. Recovered from https://zakon.rada.gov.ua/laws/show/1402-19#Text

Law No 1618-IV, 2004. Civil Procedure Code of Ukraine. Base of legislation of the Supreme Council of Ukraine, Kyiv, Ukraine, March, 18, 2004. Recovered from https://zakon.rada.gov.ua/laws/show/1618-15#Text

Law No 2155-VIII, 2017. On electronic trust services. Base of legislation of the Supreme Council of Ukraine, Kyiv, Ukraine, October 5, 2017. Recovered from https://zakon.rada.gov.ua/laws/show/2155-19?lang=en#Text

Maikut, Kh., Andrusiv, U., Yurkevych, Y., Dutko, A., & Zaiats, O. (2020). Protection of the right to property in the case law of the European court of human rights. Revista Amazonia Investiga, 9(28), 497-507. DOI: http://dx.doi.org/10.34069/AI/2020.28.04.54

Sakara, N.Iu. (2006). The problem of access to justice in civil cases. (Extended abstract of Candidate's thesis of Law). National University «Yaroslav the Wise Law Academy of Ukraine». Kharkiv. Recovered from http://www.irbis-nbuv.gov.ua/cgi-bin/irbis_low/cgiirbis_64.exe?C21COM=2&I21DBN=ARD&P21DBN=ARD&Z21ID=&Image_file_name=DOC/2006/06snypcs.zip&IMAGE_FILE_DOWNLOAD=1

Samborska, O. (2013). The service of receiving procedural documents from the court in electronic form, as well as SMS-summonses is gradually gaining popularity among the participants in the process. Law and Business, 35. Recovered from https://zib.com.ua/ua/print/50012-kerivnik_proektu_elektronniy_sud_osamborska.html

Statute of the Council of Europe (1949). Council of Europe. May 05, 1949. London, United Kingdom. Recovered from https://rm.coe.int/1680935bd0

The Constitution of Ukraine No 254k / 96, 1996. Base of legislation of the Supreme Council of Ukraine, Kyiv, Ukraine. June 28, 1996. Recovered from https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text

Uhrynovska, O. (2017). Electronic document management in the civil process of Ukraine. Bulletin of Lviv University, 64, 144-150. Recovered from https://law.lnu.edu.ua/wp-content/uploads/2013/10/Final-1.pdf

United Nations (2012). Declaration of the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels UN.org. Recovered from https://www.un.org/ruleoflaw/blog/document/declaration-of-the-high-level-meeting-of-the-67th-session-of-the-general-assembly-on-the-rule-of-law-at-the-national-and-international-levels/