



VALSTS TIESĪBU APAKŠNOZARE

E-JUSTICE SYSTEM IN BULGARIA: ELECTRONIC TOOLS FOR DEVELOPMENT OF E-JUSTICE

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I Introduction

E-Justice is not a single act or a state of the judicial system – this is a process that involves an set of measures associated with the reorganization of the judicial system of using modern information technologies – legal, technical, organizational, financial and educational.

The European e-Justice must fulfill three basic functions in terms of access to information in the field of justice, electronic communication between the court and the parties concerned, and to simplify and promote the exchange of information between judicial authorities in the Member States. In view of this development and implementation of an information system of enforcement is crucial, not only the expected effect on the affected public relations internally, but also as an means of fulfilling the obligations imposed as a result of Bulgaria's membership in the EU.

According to the practice, the scope of e-justice includes:

- electronic access to court information and documents;
- electronic exchange of judicial information and electronic folders and documents;
- provision of administrative services by the courts electronically;
- conducting court proceedings electronically and electronic monitoring of convicted persons;
- international cooperation through information and communication technologies.

II Electronic tools for carrying out e-Justice in the EU

The implementation of the reform for the transition to e-justice could not be achieved without a clear normative rules established by the law.

On 22 October 2013 European Parliament adopted a Resolution on e-Justice at its Plenary meeting calling for the use of electronic applications, the electronic provision of documents, the use of videoconferencing and the interconnection of judicial and administrative registers to be increased in order to further reduce the cost of judicial and out-of-court proceedings.

The following electronic tools are used in the practice of Member States of the EU:

- automated systems for text processing and management of administrative procedures and lawsuits;
- digitization of court documents and the possibility of their remote copy;
- electronic exchange of information and electronic folders between courts;
- electronic exchange of information between legal practitioners in the judiciary and other state bodies involved in court cases;
- keeping and maintenance of electronic records;
- remote electronic access to judicial information and cases (web pages, portals);
- electronic administrative services of the courts (calendars, reports, submission of documents and filing cases electronically, payment of fees, etc.);
- video and phone conference;

- international electronic registries, e-networks for international cooperation.

Two of the main tools of European e-Justice are – Portal of the European e-Justice (<https://e-justice.europa.eu>) and the European Judicial Atlas (<http://ec.europa.eu/justice/>).

The activity of the Council of Notaries of the European Union (CNUE), some of the main notary e-Justice tools at the service of citizens and the judicial system in Europe are: ENRWA – European Network of Registers of Wills Association (www.arert.eu) and site of succession law (Successions in Europe: www.successions-europe.eu). The site is available in 23 languages, including Bulgarian language and there can be found all the necessary information on the law of succession, which contains cross-border elements.

In the process of development and implementation of electronic tools for e-Justice the priorities of the lawyers must be taken into account:

- access to national and European legislation;
- access to national and European case law;
- providing a system for secure access of lawyers involved to civil and criminal proceedings so they are able to follow their cases;
- creating an integrated system for electronic processing of all lawyer associations in Bulgaria, including the documents of lawyers and law firms;
- continuous training of judges, court staff and lawyers in support of “E-Justice” and its application.

There is also the question of further development of the communication by electronic means (via video-conference connections or secure electronic data exchange) between the judicial authorities of Member States in the framework of the adopted instruments of the European judicial area in civil, criminal and administrative law.

We can define the following guidelines to support lawyers:

- electronic management of civil, criminal and administrative proceedings;
- option for (remote) examination of the case by the judges;
- compatibility of public records (property, sales, etc.);
- submission / filling of appeals, legal documents, etc., electronically;
- electronic transfer and delivery of court

documents, receipts and applications for legal aid;

- teleconferencing;
- additional questioning of witnesses and experts via teleconference after consultation with interested parties.

III Electronic tools for carrying out e-Justice in Bulgaria

On 7.04.2015, in the National Assembly was submitted a new bill amending the Law of the Judiciary and a new chapter was introduced – XVIII “a” on Verification statements and proceedings in electronic form and in art. 360 of the Act is assigned high priority level to the requirements for websites, electronic documents, and electronic statements from the judicial authorities, electronic evidence, storage and access to electronic cases etc.¹

To date already all courts in Bulgaria have an electronic version of their cases, which are managed and administered electronically and automatically, and thus is achieved an exceptional transparency and accountability in the work of magistrates and court clerks, which can be traced by the citizens and lawyers in their reports on their cases.

1. Central web-based interface for publishing judicial acts

According to Art. 64 para. 1 of Law on the Judiciary acts of any court shall be published immediately after their pronouncement on the website of the relevant court in compliance with the Law on Personal Data Protection and the Law on Protection of Classified Information.

Central web-based interface for the publication of judicial decisions is available on the Internet at <http://legalacts.justice.bg> is integrated with the four systems for case management. Integration is built through the technology Windows Communication Foundation, for that purpose are created web services, through which the systems can transmit information to the portal².

For all involved in the proceeding, subject to depersonalization are:

- the names of individuals, as they are initialized;
- identification numbers (PIN);

Besides the above mentioned personal data, subject to depersonalization is also all other personal data of the involved, related to their ethnicity, race and religion, as well as data on physical, physiological, mental, psychological,

economic, cultural, social, professional and other identity, but only if it could reveal their identity.

2. Systems approved by the Supreme Judicial Council (SJC)

With decision from 2009, the Supreme Judicial Council approved the use of 5-information filing systems (Decision 27, Protocol 42 / 29.10.2009 from meeting of the SJC <http://www.vss.justice.bg/page/view/2395>):

- Automated system for case management (ASCM);
- Judicial Administrative System (JAS) is used in ≈ 83 % of the Bulgarian courts: 22 District courts (DC); 93 Regional courts (RC); 24 Administrative courts; 3 Military courts; 2 appeal courts; 1 Specialized criminal court.
- The system has a module for random distribution of cases, but 144 out of 146 courts do not use it.
- Court Case Management System (CCMS);
- Case Progress Management System (EMSG);
- Unified information system of the prosecution.

Under the instructions of SJC each court can choose among the 4 IS: ASCM, CCMS, Judicial Administrative System (JAS), EMSG. Two of the programs are donated by the US Agency for International Development USAID / JSI and EU / PHARE and according to the terms they should have been used over the next five years.

From functional point of view, the information systems generally offer:

➤ CREATING ELECTRONIC FOLDERS

- Electronic formation and filing of lawsuits
- Digitization of court documents and work with them
- Publishing of judicial acts with automatic deletion of personal data

➤ ELECTRONIC ADMINISTRATION

- Fully electronic coverage of court proceedings
- Electronic registration of each event and track electronically of each case from filing to final completion
- Print documents

➤ ELECTRONIC MAIL FOR EXCHANGE OF INFORMATION AND DOCUMENTS

– Internal electronic exchange of documents and information between judges and court officials, between courts and prosecutors, UISCC

➤ ELECTRONIC REGISTERS AND BOOKS

- Electronic registers and inventory books
- Electronic registers on administrative

management (for trainings, for refusals, complaints about delays, etc.).

- Electronic registers of cases (for cases of significant public interest).

➤ **ELECTRONIC REPORTS, ELECTRONIC COPYING OF DOCUMENTS, STATISTICS** (for court cases, for workload of judges and court staff).

3. Programs for random distribution of cases

Currently the courts in the country work with three programs for random distribution of cases: 165 of them work with the program of the *Supreme Judicial Council* “Law Choice”, 2 with the program JAS CourtClerk of “Information Services” (Regional courts Karnobat and Regional courts Yambol) and 9 courts use the module of ASCM for random distribution of cases.

The program *Law Choice*, which is used to randomly distribute cases, is independent. Functionalities:

- Random distribution of cases between judges
- Random distribution of jury
- Random distribution of cases by complexity ciphers.

A problem is the use of different software products for the management and distribution of cases with different platforms, technical capabilities and methods and rules for working in the bodies of the judiciary.

PROBLEM SOLUTION: by introducing unified and centralized software for management and distribution of cases in all courts (as is already provided in the new Draft of Law amending the Law on the Judiciary of Ministry of Justice.

4. Electronic access to judicial information and administrative services through the website of the courts

GENERAL INFORMATION ABOUT THE COURT (contact information, location, structure, bank accounts, internal regulations, strategic plan, reports, statistics, functions of court offices, working time, projects, news, announcements, competitions, press releases, judges, jury, international experience, material from training, ethical files, e-box for signals, etc.)

INFORMATION ABOUT COURT PROCEDURES AND RIGHTS OF PARTICIPANTS IN CASES (types of legal proceedings in the country and the EU, the rights of defendants, legal aid, rights of victims,

children and victims of crime, filing lawsuits, taxes and tariffs, e-links with other bodies and institutions)

REMOTE ELECTRONIC REPORTS ON CASES (calendars for court sessions, information about the status of cases, published court decisions, cases of significant public and media interest, a glossary of legal terms, e-connection to CWBIPJA, list of experts, lawyers, mediators, notaries, bailiffs)

OTHER ELECTRONIC ADMINISTRATIVE SERVICES (link to the Ministry of Justice to issue an e-certificate of conviction, virtual e-box for signals and complaints, publication of electronic forms and templates for administrative services and judicial procedures, remote printing of published court decisions, audio version of important information from the website for the blind and illiterate, e-polls).

Emphasis is placed on: digitization of court documents, electronic administrative services, keeping electronic registers, e-mail, and software for blind and illiterate persons, teleconferencing³.

5. E-Portal for remote electronic access to case files and documents for lawyers and involved parties

In all case management systems approved by the SJC and used in the courts of the Bulgarian judicial system is ensured and implemented publishing of information for the cases in the websites of the respective courts. This information is sent to the database of the Central web-based interface for publishing judicial acts (CWBIPJA).

The successful operation of the system is guaranteed by the obligations to create electronic folders and maximum speed scan and upload of documents to the web.

The scope of the supplied remote access to judicial information via the unified electronic

portal (UEP) includes: information on the type of case and its status /date of initiation, movement, scheduling, notification for decision/, court panel, changing of court panel, parties in the process, a court clerk, a lawyer, given court decisions in the case, including court protocols and final court decisions, information on appeals of decisions, as well as full access to all court papers and documents in the electronic case folder. The portal provides information also on related cases, if appellate or cassation review of the case is conducted.

The electronic portal⁴ for access provides an opportunity to make a quick reference on a number of set criteria, such as case type, case reference number, case number and year, previous case number and year, party to a case⁵.

PROBLEM: Lack of technical capability at the central level for remote electronic access to judicial information and offered administrative services and procedures in court.

PROBLEM SOLUTION: by introducing a Unified central-based electronic portal for remote access to the court cases, administrative services and procedures (as is legally provided in the new Draft of Law amending the Law on the Judiciary already being developed by the SJC.

IV Results and challenges

1. Electronic tools used in the judicial system in Bulgaria

According to the European Commission report on the effectiveness of the judiciary in the period 2012-2014 the situation in Bulgaria is as follows (Scheme for evaluating judicial systems – 2012-2014 cycle of the European Commission for the Efficiency of Justice (CEPEJ):

Electronic tools used in the judicial system in Bulgaria:

Electronic database of the legislation		Financial information system	
Electronic files		Electronic web forms	
Electronic mails		Internet pages	
Connection to Internet		Electronic registries	
Systems for case filing		Court information management system	

Used limited videoconferencing (video-conference is used limited - only on evidence in criminal proceedings).

Lack of options⁶ to:

- tracking the progress of the case online;
- e-procedure for “small claims”;
- e-procedure for recovery of claims;
- electronic submission of application;
- electronic communication with other agencies.

2. **Proposals to improve electronic access to e-justice**

➤ National register of criminal records (electronic tool in the public interest to assist the exchange of information between institutions and at international level in criminal proceedings).

Purposes:

- Electronic access of citizens to the national criminal record. Anyone can have access to the system to make a request online and receive a copy of the criminal cases uploaded on the website.
- Interoperability between public administration and the central database of the Integrated Information System of the National register of criminal records of the Ministry of Justice⁷ and the central database of the information systems of criminal records of other Member States.

➤ Electronic submission and tracking of legal documents (complaints, warrants, etc.) – an online service for lawyers, judges and citizens (electronic tool useful for lawyers and citizens to exchange information between the institutions).

Ministry of Justice initiated a project for e-governance that serves the needs of society, to assist the state in preparing its policy to reduce costs and provide more efficient management and use of available human resources and simplification of criminal justice.

➤ Electronic archive, filing and availability of court cases (a tool for lawyers and citizens and the exchange of information between institutions).

Purpose of the tool is to improve archiving, filing and availability of court cases, thereby increasing the transparency and efficiency of the judiciary and provide guarantees on respect for rule of law and improve services to the public.

The electronic tool consists of a website which provides the following applications for citizens:

- electronic submission of an application for copying court cases (by lawyers, involved parties);
- downloading copies of court documents from the page;
- downloading an application for the issuance of judicial documents;
- electronic exchange of information between judges and secretaries;
- electronic exchange of information with other information systems.

V **Conclusions**

The problems with the application of information technologies in the judiciary and the work of the Bulgarian courts are expected to be solved:

1) by introducing unified and centralized software for management and distribution of cases in all courts (as is already provided in the new Draft of Law amending the Law on the Judiciary of Ministry of Justice);

2) by introducing a Unified central-based electronic portal for remote access to the court cases, administrative services and procedures (as is legally provided in the new Draft of Law amending the Law on the Judiciary already being developed by the Supreme Judicial Council;

3) by the implementation of e-justice and the relevant e-procedures and services from Law amending the Law on the Judiciary of Ministry of Justice.

The author has done research on information models for assessing the degree of development of the websites of the judicial authorities in Bulgaria⁸.

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Anotăcija

E-pārvalde ir Bulgārijas valdības politikas prioritāte. Tā ir minēta kā izeja no ekonomiskās krīzes, lai mazinātu korupciju un administratīvās izmaksas, kā arī palielinātu varas caurskatāmību. Tiesu sistēmas reforma ir neapšaubāmi saistīta ar vienu no galvenajiem e-pārvaldes jēdzieniem – e-tiesiskuma ieviešanu. Ļaujot pilsoņiem aizstāvēt savas procesuālās tiesības elektroniski, tiek sperts solis uz priekšu moderna valsts pārvaldes aparāta un pilsoniskās sabiedrības attīstībā. Citu ES dalībvalstu prakse e-tiesiskuma jomā ietver informācijas un komunikācijas tehnoloģiju ieviešanu tiesvedībā un tiesu administrācijā, kā arī tiesiskās informācijas un tiesisko dokumentu elektronisku pieejamību.

Аннотация

Электронное управление является стратегическим приоритетом в политике правительства Болгарии. Оно признано одним из способов выхода из экономического кризиса, чтобы уменьшить коррупцию, сократить административные расходы и способствовать увеличению их прозрачности. Судебная реформа безоговорочно связана с одним из главных элементов концепции электронного управления – введением электронной юстиции. Разрешение гражданам отстаивать их процессуальные права в электронной форме является шагом вперед в развитии современного государственного аппарата и гражданского общества в целом. Опыт и практика других государств-членов ЕС, связанные с областью электронной юстиции, включают в себя введение информационно-коммуникационных технологий в исполнительном производстве – в административном обслуживании судов, обеспечивающих открытый доступ к информации в электронной форме.