

Electronification of Civil Justice in Lithuania

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The purpose of this article is to focus and explain the most important initiatives in Lithuania to introduce and promote electronification of civil proceedings in Lithuania. The authors will discuss the most important advantages and the biggest problems regarding digitalisation of civil justice in Lithuania.

Introduction

Effective implementation of the right to a case hearing within a reasonable time in the 21st century is no longer conceivable without modern information and communication technologies (hereinafter – ICT) to accelerate judicial proceedings. The penetration of ICT into judicial proceedings and a resultant change in judicial proceedings and procedures is witnessed all over Europe, as in many other countries of the world. Some initiatives appear to be very successful when modern technologies are smoothly integrated into the daily activities of courts and help save time and funds, activate judicial processes and move them to a new quality level. Unfortunately, exposure to failures is not excluded when the penetration of modern technologies and the tapping of their potential gets impeded, the modern tools developed do not filter through into practice or are not properly used. We would think that Lithuania is indeed quite a good example where ICT are rather effectively used in many areas of civil procedure.

The introduction of ICT in Lithuania

ICT technologies can be used at three levels: (i) personal (judges, their assistants, court clerks, administrative staff, etc.), (ii) institutional (individual courts and the whole system of courts) and (iii) inter-institutional (relations of courts with other participants in proceedings, state registers and information systems)⁵. For the highest effect, ICT development on all these levels must be strategically planned and balanced, adequate computerisation of courts, efficiency and interoperability of information systems of courts, compatibility with the systems of external users, attractive and user-friendly interfaces are necessary. The development of the technologies of all three types, as distinguished by *M. Velicogna*, yields the best result if that does not compromise the reliability and fairness of court processes and procedures, if external users know how to use electronic services, develop their usage skills, get encouragement and

ongoing training on their use, if these technologies of courts are handy and interoperable with the technologies held by external individual and group users.

The use of ICT technologies in the activities of courts in Lithuania began at the beginning of the last decade of the last century. First of all, the objective was to equip courts with computer equipment with standard application packages and access to the internet. For this reason, basic technologies were installed. This process was highly centralised; only between 1994 and 1996, continuing the computerisation of courts a full-time position of a consultant for IT found its way in courts and one computer for each of the courts was purchased from centralised budget funds. A certain level of progress in computerisation was followed by more advanced technologies for the administration, organisation and support for courts. A special application BYLOS (PROCEEDINGS) was developed and launched to automate the work of court registries, register incoming correspondence, partly automate and calculate statistics by different cross-sections and generate hearing schedules.

Along with the computerisation of courts and development of special applications, the development of electronic data bases of legal acts with electronic search tools began. Over several years, they rapidly evolved, were filled with the relevant information from the previous periods, received prompt updates with the most recent legal information and became accessible online. Moreover, separate institutional information systems, more or less related to the

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⁵ *M. Velicogna*, Use of information and communication technologies (ICT) in European judicial systems, The European Commission for the Efficiency of Justice (CEPEJ), Strasbourg 2007, http://www.coe.int/t/dghl/cooperation/cepej/ser.ies/Etudes7TIC_en.pdf, (access from 10.1.2017 till 14.1.2017), p. 21–30.

activities of courts, were developed and launched. In 2002, the Register of Property Seizure Acts with the supporting information system became operational⁶. In 2002–2003, when moving from public bailiffs to the model of private bailiffs, the information system of bailiffs was developed and launched⁷. Likewise, the development and improvement of other e-government tools started⁸.

A quality leap in the development of ICT in Lithuanian courts took place between 2004 and 2005 when the unified information system of Lithuanian courts, LITEKO was launched. The development of the unified judicial information system in Lithuania received the financial basis in the form of EU financing through the PHARE Twinning Project ‘Strengthening the Capacities of Lithuanian Courts’⁹. In 2004, as a result of implementation of this project, local computer networks were implemented in all Lithuanian courts. After each court was equipped with local servers and routers and the central server was set up in the central node of the system, these networks were connected into a closed institutional network of courts. In this way, the infrastructure of the unified judicial network has been developed. Along with the development of the network infrastructure, the development of applications for the registration of cases and information related to the proceedings as well as for the automation of court work was undertaken. These applications were based on the application BYLOS (PROCEEDINGS), which had been previously used in courts.

The initial development stage of LITEKO yielded only six modules programmed and implemented out of the thirteen planned at that time due to the lack of financial resources and time as well as various organisational problems¹⁰:

- registration and accounting of cases;
- exchange of case-related information among courts;
- search of similar cases and information in the data bases of LITEKO;
- templates of court documents;
- generation of statistical reports;
- publishing of procedural decisions of courts online.

Subsequent development stages of LITEKO planned deploying the following remaining application modules:

- automated generation of court hearing schedules;
- tracking of procedural time limits;
- automatic distribution of cases to judges;
- automatic calculation of caseload for judges;
- drawing up and registration of incoming-outgoing documents (electronic management system of court documents);
- monitoring and control of unavailability of the parties to proceedings;
- information search engines in external registers and data bases¹¹.

The second group modules were expected to guarantee a higher level of automation of the workload of judges and their assistants, start developing the technologies of electronic support for judges. Failure to develop them during the first stage brought further development of the LITEKO software framework to a standstill. Moreover, issues surfaced out regarding the failure by LITEKO to come up to user expectations as they expected a more intensive development of help tools during this stage.

The implementation of LITEKO and the deployment of the above-referred six initial modules in Lithuanian courts revealed a number of deficiencies in the applications. Apart from purely technical faults and imperfections, it was found out that the expectations of final users were not satisfied as expected. The first version of the LITEKO application, as its predecessor application BYLOS (PROCEEDINGS) was mostly tailored for automating the work in court registries, some processes in the registries and for automated generation of statistics. The applications also lacked accuracy and ergonomics. For this reason, during the system testing and over the first years of its use little praise was received even from the registries of courts; there was much more criticism that, in order to ensure proper functioning of LITEKO, multiple input of the same data was required in several places, that manual and computerised registration of cases was necessary and there were instances of programming errors, etc. Much criticism was addressed by the new system users – judges and their assistants. They had to tackle with new functions: register and upload to the system the procedural decisions issued by them, classify them and check whether the classification of cases by court clerks was correct, give instructions regarding the main procedural events. For this reason, the benefit of LITEKO for the functions of judges and assistant judges at that time seemed limited to them. There was a clear lack of adequate training of court staff.

In order to increase the usefulness of, and user satisfaction about, the system LITEKO, the module of automated schedule generation was promptly developed and imple-

⁶ Website of the Central Mortgage Office, <https://www.hipotekosistaiga.lt/index.php> (access 11.1.2017).

⁷ Website of the information system of bailiffs, <http://www.antstoliai.lt> (access 6.1.2017).

⁸ E-government means the set of information and electronic communications technologies (ICT) implemented in public administration activities, organisational changes and new skills in these activities in order to improve public and administrative services, democratic processes and public policy.

⁹ National Courts Administration. Judicial information system LITEKO, website can be found here: <http://www.teismai.lt/> (access from 8.1.2017 till 20.1.2017).

¹⁰ *Ibidem*.

¹¹ Regulations of the Information System of Lithuanian Courts as approved by Resolution No. 13P-435 of 11.2.2006 of the Judicial Council, <http://www.teismai.lt/lt/teismu-savivalda/teiseju-taryba/nutarimai/173/> (access from 5.1.2017 till 22.1.2017).

mented in 2005. The modules for the automated workload estimation and case distribution for courts and judges also underwent active development. They were finally completed and actually installed only after the Parliament of the Republic of Lithuania demonstrated political will and stipulated in the amendment to Article 36 of the Law on Courts¹², which was adopted on 3.7.2008, that starting with 1.9.2008, cases should be distributed and panels of judges should be formed in courts by means of the computerised application. In 2008–2009, the refinement of the case distribution system was completed, actually integrated into the information system and put into practical application. This highly sophisticated model undergoes further improvements with updated versions deployed.

Between 2005 and 2006, the implementation of LITEKO and corrections of the errors identified was followed by a more thorough analysis whether the remaining modules that were planned to be developed were the only possible means of automation for courts activities at that time. Both positive and negative experience with the development and implementation of LITEKO also made question whether the functionality and ergonomics of the intended remaining LITEKO modules would be adequate and acceptable to users. Review of the international practice showed that the functionality of the software part of LITEKO planned was inadequate; moreover, priorities were set incorrectly. As each module of LITEKO was being planned and developed quite autonomously, a decision was made to propose corrections to the LITEKO development plans, expanding the functionality of the modules planned to be developed, changing priorities, envisaging new modules and information system functions.

On 10.5.2006, the Judicial Council approved the LITEKO Development Plan by its Ruling No. 13P-462¹³ envisaging the development of six additional software modules:

- automation of the issuance of court orders and other summary proceedings;
- electronic exchange of procedural documents and information between courts and other participants to proceedings;
- secure electronic communication between courts;
- electronic accounting of the stamp duty;
- unified case numbering;
- electronic workbenches for judges and court staff.

Moreover, the Development Plan of LITEKO envisaged the use of this system for audio recordings of court hearings, processing and storing digital records, video-conferencing related to judicial proceedings (questioning of witnesses and other persons, etc.).

An effective and prompt implementation of these plans, however, was hindered again by the lack of financing and political will. As the maintenance of the information sys-

tem implies quite significant costs and compute equipment gets outdated fast, the majority of the funds allocated for LITEKO was spent for upgrading the information system hardware and for the maintenance of the system itself – as a result, the deployment of new functions by means of internal financing sources of the courts was slow. Quite a long time after the development of LITEKO and its integration into new modules, with an increase in the volume of data and in the number of users and operations, the problems of limited efficiency and slow operation of this information system surfaced out quite sharply.

Out of the second group modules, the modules for automated generation of hearing schedules, automated case distribution for judges and automated forming of panels of judges, estimation of the workload of judges, monitoring and control of unavailability of the parties to proceedings have been programmed and actually set up to date. The module for tracking procedural time limits was completed and its implementation began in 2013. The operation of this model, however, had to be slowed down due to the limited efficiency of the LITEKO system.

As far as the third group modules are concerned, the fastest was the development and deployment of the module of unified case numbering. Its development and implementation necessitated numerous internal rearrangements of the information system, the development and approval of the procedure for unified numbering of judicial cases, changes to the document management rules in courts¹⁴. A prototype of the module for automating the issuance of court orders was completed and underwent tests in 2009. It was actually implemented and entered into application in 2011¹⁵.

One of the major shifts towards increasing the efficiency of ICT use and accelerating the development of available ICT technologies took place when the Seimas demonstrat-

¹² The Law Amending and Supplementing Articles 33, 34, 36, 38, 39, 42, 43, 47, 51, 55-1, 57, 61, 63, 64, 69-1, 81, the title of Chapter IX, Articles 83, 84, 85, 86, 90, 98, 101, 103, the title of Section Two of Chapter XII, Articles 106, 107, 108, 119, 120, 122, 124, 127, 128, 129 of the Law on Courts, Invalidating Articles 89, 109, 110, 111, 112, 125 and Supplementing the Law with Articles 53-1, 53 and Section Three of Chapter IX. Official Gazette 2008, No. 81–3186.

¹³ Resolution No. 13P-462 of 10.5.2006 of the Judicial Council On the Development Plan of the Information System of Lithuanian Courts (LITEKO) <http://www.teismai.lt/lt/teismu-savivalda/teiseju-taryba/nutarimai/173/> (access from 5.1.2017 till 22.1.2017).

¹⁴ Resolution of 9.6.2006 of the Judicial Council on the Approval of the Rules for Allocating Numbers to Judicial Proceedings in Courts of the Republic of Lithuania, the List of Codes of Courts and on the Amendment of Resolution No. 280 of 8.10.2004 of the Judicial Council on the Approval of the Rules for Document Management in Courts of the Republic of Lithuania (except the Supreme Court of Lithuania), <http://www.teismai.lt/lt/teismu-savivalda/teiseju-taryba/nutarimai/173/> (access from 5.1.2017 till 25.1.2017).

¹⁵ Electronic ordering system of court orders TĖEUS, <http://liteko.teismai.lt/tieus> (access 11.1.2017).

ed political will and adopted a package of amendments to the Law on Courts and the CCP on 21.6.2011¹⁶. The package contained an ambitious undertaking to start moving to the information infrastructure of judicial proceedings from 1.1.2013 (subsequently this time limit was extended to 1.7.2013).

Namely, it was laid down in Article 37¹ of the Law on Courts that the electronic data related to judicial and enforcement proceedings shall be managed, registered and stored using information and communication technologies. It legitimised the digitalisation of paper files and procedural documents. It provided for the opportunity to avoid duplicating the paper-based and electronic management of case-files and move only to electronic management of case-files in judicial proceedings. The right of the parties to proceedings to get remote access to electronic case-files and the right to submit procedural documents to courts electronically by remote communication means was introduced and the use of electronic procedural documents and electronic signatures in the procedural activities of courts were legitimised. Whereas electronic signatures were not widespread, in order to facilitate remote access to electronic case-files and submission of electronic procedural documents for litigants, the possibility was ensured for external users to get authentication in the LITEKO system by different methods, not only by means of electronic signatures when submitting electronic procedural documents to courts. With a view to promoting the presentation of documents in the electronic form to courts and, at the same time, a faster shift to electronic case-files, Article 80(7) of the CCP provided for a stamp duty reduction of 25 per cent applicable in the cases when an electronic procedural document is submitted.

In order to move to the information infrastructure faster, Article 175¹(9) of the CCP stipulated that advocates, assistant advocates, bailiffs, assistant bailiffs, notaries, state and municipal enterprises, institutions and organisations as well as insurance undertakings had to ensure the submission of procedural documents by electronic means as of 1.7.2013. Following Article 175¹ of the CCP, where a procedural document is served by the court by means of electronic communications, the day of service to the person involved in the proceedings is the next working day after the day the procedural document has been sent. It means that, in case of sickness, business trips, holidays or any other absence at work or in the place of professional practice of specific addressees, correspondence must be, nevertheless, accepted and analysed. This must be ensured by technical and organisational measures of external users. Although at the initial stage this caused dissatisfaction of external users, they eventually adapted quite promptly and implemented their technical and organisational changes necessary.

While implementing the package of amendments to the Law on Courts and the CCP, the data bases of LITEKO were modernised and expanded, the centralisation of the functions of LITEKO was completed, the subsystem of public electronic services of LITEKO (E-Service Portal of Lithuanian Courts¹⁷) was developed and launched from 1.7.2013, and LITEKO was partly modernised by enabling to conduct proceedings electronically, use electronic signatures from the side of courts and form as well as view adoc format documents. The system of electronic services functioning at present covers drawing up procedural documents and their submission to the court by parties to proceedings, the management of information on the stamp duty, the management of information on the fines imposed and the litigation costs awarded in favour of the State by the court, access to case-files for external parties to the proceedings, service of procedural documents of the court and provision of audio recordings of hearings to the recipients of services. The implementation of the third group of LITEKO modules is further continued in this way. It should be welcomed that the new electronic services have been used quite intensively – over the first years of system operation, the courts have received more than 36 000 electronic procedural documents and sent almost 300 000 thousand electronic documents. The number of external users of the portal exceeds 14 000 already. More than 10 million electronic messages about the course of proceedings have already been sent to their accounts¹⁸.

Moreover, quite recently the electronic management service of judicial mediation procedures has been launched. If both parties agree and wish judicial mediation can take place only online via electronic means. Enforcement procedure can also take place electronically. Parties to the dispute are able to submit applications to the bailiff and receive enforceable instruments electronically. Auctions of debtor's property have been taking place only electronically since 2011. Electronic systems of the bailiffs are being integrated with LITEKO system at the moment.

¹⁶ Law Amending and Supplementing the Code of Civil Procedure of the Republic of Lithuania. Official Gazette 2011, No. 85-4126; Law Amending Articles 36, 37, 93, 94, 120 of the Law on Courts of the Republic of Lithuania and Supplementing the Law with Article 371. Official Gazette 2011, No. 85-4128.

¹⁷ E-Service Portal of Lithuanian Courts, <https://e.teismas.lt/lt/public/home> (access 14.1.2017).

¹⁸ National Courts Administration. Awards to the most active external users of the portal e.teismas.lt, <http://www.teismai.lt> (access from 8.1.2017 till 18.1.2017).

The main challenges of electronification of civil justice in Lithuania

Unfortunately, highly ambitious plans of the legislator to move to the information infrastructure of judicial proceedings in a couple of years have not been achieved to their full extent. The courts have not been and still are not prepared to digitalise all procedural documents. The reason is both inadequate quantity and efficiency of technical equipment in courts and low efficiency of LITEKO; moreover, the human factor also comes into play – inadequate organisational preparedness and insufficient trainings. The issues in the efficiency of LITEKO have also recently highlighted the element of convenience of this system for courts. Moreover, they made it impossible to activate all the functionalities programmed in the project of public electronic services of courts (e.g. printing of electronic case card data to indexed portable (PDF) format files, which would be transferable easily and fast to tablets, laptops, other mobile devices and handy to use during court hearings). It should also be noted that the development and implementation of the LITEKO documents management system module takes place considerably slower than planned and has not been completed to date, which is a serious impediment for a continued transition to the information infrastructure of proceedings, because the existing document management functionalities of the LITEKO system, which were modernised in 2013, are not in line with the minimum functionalities of document management systems.

The difficulties encountered in tapping the potential of ICT for accelerating the Lithuanian judicial proceedings and making them more effective indicate that one of the first objectives to be currently addressed is substantial modernising, increasing the efficiency of this system, its convenience for courts and interoperability with external information systems, registers and the data management systems held by external litigants, stepping up the development of the hardware infrastructure to facilitate moving from paper-based case files. This objective is intended to be addressed over the next two years, by implementing the project of the National Courts Administration 'Modernization of the Courts Information System (System for Case Handling and Audio Recording for Courts Hearing)' within the framework of the Programme of the Norwegian Financial Mechanism 'Efficiency, Quality and Transparency in Lithuanian Courts'. This project will implement a major modernisation of LITEKO and its integration with other information systems¹⁹.

The wording of Article 168 of the CCP in force as of 1.1.2014 lays down an obligatory audio recording of all

court hearings using the equipment specified in the order of the Minister of Justice. This completely eliminates the use of 'paper' records as it is established that an audio recording shall be considered to constitute the record of the hearing and shall constitute an integral part of the proceedings. This amendment has been followed by considerable concerns about safety and reliability. The entry into force of the relevant wording of this legislative provision had been postponed for a year as the courts were not sufficiently prepared technically. The preparing of courts to move to the audio recording of hearings took several years, the funds of the Norwegian Financial Mechanism were also used for this purpose. The development of the audio recording infrastructure has not been finalised yet. Not all courts have stationary audio recording equipment with special applications installed to ensure a more advanced quality and structuring of recordings, facilitate more convenient listening to recordings, automatically transfer them to LITEKO storage facilities from where recordings are broadcast to LITEKO electronic case cards. In a large number of courts, audio recordings are still made by mobile equipment (digital Dictaphones) and are not structured. The audio recording system, however, is under improvement and development²⁰. The technical issues encountered at present are quite effectively solved by additional organisational and technical measures²¹. The elimination of traditional taking of minutes allows avoiding additional work involved in minute-taking. That saves time for secretaries of court hearings and often also for judges, reduces the workload of court registries.

In general, the quality of recording of hearings has been improving. Although the development of infrastructures is still unfinished, the time saving effect is already noticeable. In order to increase this effect, it is necessary to finalise developing the audio recording infrastructure as rapidly as possible to help avoid errors and technical failures, ensure a faster and more usable recording and reproducing of the course of hearings, which would contribute to achieving a substantial change in terms of quality and time in recording case hearings.

Since 1.3.2013, Article 175² of the CCP came into force and legitimised the use of information and communication technologies (video conferencing, teleconferencing, etc.) in questioning witnesses, experts, persons involved in the

¹⁹ Description of the project 'Modernization of the Courts Information System (System for Case Handling and Audio Recording for Courts Hearing)' within the framework of the Programme of the Norwegian Financial Mechanism 'Efficiency, Quality and Transparency in Lithuanian Courts', <http://www.teismai.lt/nor/> (access 15.1.2017).

²⁰ *Ibidem*.

²¹ Resolution No. 13P-22-(7.1.2) of 14.2.2014 of the Judicial Council on the Approval of the Description of Procedure for Audio Recording of Court Hearings, <http://www.teismai.lt/lt/teismu-savivalda/teiseju-taryba/nutarimai/173/> (access 21.1.2017).

proceedings and other parties to the proceedings, as well as during site surveys and collection of evidence. The law notes that the procedure and technologies applied have to guarantee the objectivity of evidence capturing and presentation as well as enable a reliable identification of the persons involved in the proceedings. For this legislative norm to become really operational, technical preparations, i.e. the project 'Designing and Installation of the Video Streaming, Recording and Storage System in Courts' under the Lithuanian-Swiss Cooperation Programme must be completed. Within the framework of this project, it is intended to install video conferencing facilities in eighteen courts in the second half of 2014. Integration of video conferencing in civil proceedings necessitates a more thorough regulation of the video conferencing procedure, which should be adapted to the specifics of a particular technology and to the organisational structures of courts, should be user friendly and respond to the underlying principles of civil procedure. Moreover, it is necessary to lay down the procedure for teleconferencing.

Conclusions

The maximum effect in speeding up and improving the civil process can be achieved through the use of conveniently and attractively delivered and installed ICT technol-

ogies of all levels intended for application in courts (basic technologies and those intended for the administration and organisation of court activities and assistance to judges). For the purpose of ensuring that ICT potential is exploited smoothly and efficiently, adequate attention must be given and sufficient funds must be allocated towards a revolutionary transition from a paper-based judicial infrastructure to the informational infrastructure, which is based on electronic information and electronic documents.

As it is seen, Lithuania has already been using a multitude of effective ICT measures, which certainly contribute to the completion of civil cases within a reasonable time. Most importantly, we cannot rest on our laurels, but take interest in potential new developments and continuously monitor the economic and quality benefits generated by the progress in digitalising the civil procedure, be flexible in implementing more ergonomic, efficient tools to better satisfy the needs of users, take a more intensive and determined approach in developing the information infrastructure for the performance of courts, carry out more accurate and clearer planning, identify and coordinate the priorities of the ICT development projects ongoing in courts in a more optimal manner, and have no fear of adapting classical procedural standards when implementing ICT. Such developments eventually contribute to ensuring the right of individuals to the faster, fair and proper administration of justice.

Key words: *civil justice, modern technologies, Lithuania.*



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