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ВОПРОСЫ МОДЕРНИЗАЦИИ И ВНЕДРЕНИЯ ИННОВАЦИОННЫХ ТЕХНОЛОГИЙ В СУДЕБНО-ПРАВОВУЮ СИСТЕМУ УЗБЕКИСТАНА

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ISSUES RELATED TO MODERNIZATION AND INTRODUCTION OF INNOVATIVE TECHNOLOGIES IN THE JUDICIAL AND LEGAL SYSTEM OF UZBEKISTAN

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АННОТАЦИЯ

В данной статье рассматриваются вопросы модернизации и внедрения инновационных технологий в судебную-правовую систему Узбекистана. Автор статьи считает, что в судебной защите прав и свобод человека в Узбекистане важное место занимают стремительно развивающиеся сегодня информационно-коммуникационные технологии. Принятие законодательных документов, упорядочивающих отношения, связанные с данной сферой имеет важное значение в развитии информационных технологий и широком внедрении их в судебную деятельность. Перед судебными органами поставлена актуальная задача незамедлительного принятия необходимых мер по фактам посягательства на права и на законные интересы человека, упрощения процедуры рассмотрения обращений физических и юридических лиц, широкого применения эффективных механизмов сотрудничества гражданских институтов с населением и в целом преодоления любых форм проявления бюрократизма.

ABSTRACT

The article under discussion depicts issues of modernization and introduction of innovative technologies in judicial and legal system of Uzbekistan. The author of the article believes that in the judicial protection of human rights and freedoms in Uzbekistan an important role is played by the rapidly developing today's information and communication technologies. Adoption of legislative documents persisting in this area is of great importance in the development of information technologies and their wide introduction into the judicial activity. An urgent task has been set for the judicial authorities to take immediately the necessary steps to address violations of human rights and legitimate interests, to simplify the procedure for considering applications from individuals and legal entities, to widely apply effective mechanisms for cooperation between civil institutions and the public, and to generally overcome any form of bureaucracy.

Ключевые слова: модернизация, инновационные технологии, судебно-правовая система, информационные технологии, гражданский институт, эффективный, судебно-информационный, проект, деятельность, суд.

Key words: modernization, innovative technologies, judicial and legal system, information technology, civil institution, effective, judicial and information, project, activity, court.

"We all know very well that the present time is a period of information and communication technologies all over the world. Literally hour after hour, this sphere is rapidly developing. Without progress in this sphere it is impossible to imagine our present and our future".

President of Uzbekistan Sh. Mirziyoev

In the judicial protection of human rights and freedoms in Uzbekistan, the rapidly developing information and communication technologies play an important role. The adoption of legislative documents persisting in this area is of great importance in the development of information technologies and their broad introduction into judicial activity. An urgent task has been set for the judicial authorities to take immediately the necessary steps to address violations of human rights and legitimate interests, to simplify the procedure for considering applications from individuals and legal entities, to widely apply effective mechanisms for cooperation between civil institutions and the public, and to generally overcome any form of bureaucracy.

In order to ensure the fulfillment of these tasks, modern information and communications technology is being introduced into the work of the courts, taking into account the progressive experience of foreign countries.

As part of the joint project "Cooperation on the way to the priority of the law in Uzbekistan", a national electronic judicial information system E-SUD (E-COURT) has been created. The decision of the President of the Republic of Uzbekistan "On measures on the further introduction and development of modern information and communication technologies", Presidential Decree No.17-30 from March, 21st, 2012 and the Decision of the Cabinet of Ministers of the Republic of Uzbekistan "On measures on introduction of modern information and communication technologies in activity of courts" from December, 10th, 2012 have been accepted. In these documents, as the most important task is planned to introduce modern information and communication technologies in the activities of courts. Based on the above, with the support of the Supreme Court of the Republic of Uzbekistan, as well as a joint project "Improving the judicial process of the civil court: effective court management" of the United Nations Development Programme has developed an electronic judicial information system "E-SUD" (E-COURT). In its development, the experience of South Korea, Malaysia and other states was widely used.

As a result of the implementation of this project, a number of services provided by the courts will be made available online. Writing of the statement of claim, requests and complaints, processes connected with their submission in court on civil cases, reception of data on day and time of their consideration in court, also

with reception of court definition and the judicial documentation, acquaintance with materials of civil cases, and also reception of data on courts will be carried out directly in the Internet. Naturally, the introduction of such a system, which has amenities, is important in ensuring the protection of human rights, freedoms and interests. According to the decision of the Presidium of the Supreme Court of the Republic of Uzbekistan "On introduction of electronic judicial information system "E-SUD" in Zangiata Inter-District Court on Civil Cases", RS No. 42-13 dated 21 August 2013, the use of electronic judicial information system "E-SUD" was established in Zangiata Inter-District Court on Civil Cases as a probation. At the same time, this Decision approved the temporary Regulation "On Providing Electronic Version of Documents with the Use of Electronic Judicial Information System "E-SUD" in Zangiata Inter-District Civil Court". It was established that the order of all questions not regulated by the temporary Regulation is carried out on the basis of the Instruction "On the order of case-production in inter-district, district (city) courts on civil cases", approved by the Decision of the Supreme Court of the Republic of Uzbekistan RS No. 27-13 from June 24, 2013.

The 16 rules of the Regulation were found to apply equally to natural and legal persons sending documents in an electronic version to the Zangiata Inter-District Court using the E-SUD (E-COURT) electronic court information system. The following terms apply when using this system:

Electronic Court Information System is a set of processes aimed at preparation for consideration, consideration and resolution of civil cases;

A user's virtual workplace - an individual website in a special information portal of the system, which meets the requirements of operational and technical documentation and allows the user to enter information into the electronic forensic information system "E-SUD" (E-COURT) and get acquainted with this information on the basis of computer hardware, special software and through the Internet;

Pilot court of the Zangiata is interdistrict court for civil matters.

Users of the E-SUD electronic court information system are divided into external and internal users.

External users are plaintiffs, defendants, debtors, debt collectors and claimants who submit documents to the court in electronic form, registered in the system in accordance with the established procedure;

Internal users are the judge and court officials involved in preparing, examining and adjudicating the case, duly registered in the system.

In accordance with the procedure of registration in the system "E-SUD" (E-COURT) for the registration of individuals they are transferred from a special menu on the portal of the system "E-SUD" (E-COURT), i.e.

from the portal to the menu "Registration". After that the information requested about the user (name and surname, passport series and number, birth time, address and other information) is entered. The procedure for registering legal entities is somewhat different: from the special menu of the E-SUD (E-COURT) system portal, you can go to the "Registration" menu. After that the option of organization registration is chosen in the menu that appears.

After that, the information requested about the user (name of the organization, MFI, TIN, bank details, etc.) is entered.

The identity of the person being registered can be confirmed in two ways:

- they are electronically signed;
- electronic mailing address.

In the process of registration by way of electronic mail address, it is necessary to specify the location of the electronic digital identifier certificate in the computer. During registration by e-mail address method it is possible to confirm personality by means of special confirmation/identification code sent to the e-mail address specified by the user. During the registration process, the user personally ensures the non-disclosure of the login and the confidentiality of the password enabling the user to enter and use the E-SUD (E-COURT) system. The responsibility for protection and security of the login and password data rests with the user. Regardless of any patterns, the password must represent at least a 6-digit combination of letters and numbers.

After successful registration in the "E-SUD" (E-COURT) system, the virtual workplace of an individual user is opened for the user. From this virtual workplace the user has the possibility to send court documents to the court; to get acquainted with the procedural documents accepted by the court in court proceedings, as well as to use them for their preservation and publication. Users registered in the E-SUD (E-COURT) system have the right to send documents in electronic form to civil courts. To send documents to the court in the electronic version through the E-SUD (E-COURT) system, the user must perform the following actions:

Choose from the civil list the type of application (statement of claim or application for a court order /order to stop the court). If a statement "about the issuance of a court order" will be selected, the user must select in the menu that appears, ie, to determine what kind of question refers to the type of court order. After that the information requested by the "E-SUD" (E-COURT) system must be entered. (Information about the claimant and debtor, telephone numbers and e-mail addresses) A scanned copy of an application for the issuance of a signed and sealed court order, scanned copies of the reasons given in the application, additional documents required by the current Civil Procedure Code, written evidence should be downloaded.

The uploaded documents are subject to the following requirements:

- Adobe PDF format, black-and-white or grey, volume not more than 5MB, image quality /photo/ must meet not less than 200 dots per 1 inch.

- The number of documents uploaded to the statement of claim, in the statement of issue of the court order or in appendices to other documents should be equal.

- In the file name it is necessary to specify the document name and quantity of pages.

- At case consideration in court the court or the judge can demand also copies of the documents attached to the statement in formats *.doc, *.docx, *.rtf, *.txt.

It should be also noted that persons who are not able to submit documents in electronic form to the court may submit applications to the Pilot Court in paper /written form. Applications received in paper form by scanning them in the office are translated into electronic form and entered into the "E-SUD" (E-COURT) system. A clerk sends the documents received electronically through the E-SUD (E-COURT) system to the President of the Court for review and appointment of the responsible judge. At the user's virtual workplace, the status of the application is transferred to the "received and sent" status. The president of the court, using his or her virtual workplace in the E-SUD (E-COURT) system, appoints a judge to study and resolve cases received electronically.

When a judge is appointed to the user's virtual workstation, the status of the application becomes "in progress". The judge, using his E-SUD (E-COURT) virtual workstation, must issue a court order to consider this application in accordance with the established procedure and issue an order / order to accept / refuse to accept this application. If the judge intends to reject the application, he will click on the "reject application" button in his virtual workplace. Then, in the menu that appears, he chooses the grounds for rejecting the application and follows the instructions of the system. To issue a court order, the judge clicks the "court order" button and follows the instructions of the E-SUD (E-COURT) system. After the court order is issued, a copy of the court order is sent to the debtor's postal address. If a complaint about disagreement is submitted by the debtor within the set period of time, the judge clicks the button "cancel the court order" to cancel the given order. If no complaint is made by the debtor, the judge will print out the court order, sign and seal it and send it to the debt collector.

After all the processes in the user's virtual workplace are completed, the status of the application is changed to "rejected application", "issued order of the court" or "cancelled order /decision of court". At the same time, in the user's virtual workplace, the user (plaintiff, defendant, debtor, blog collector) is provided with electronic forms (versions) of court documents for familiarization with them, publication or saving them.

After the user is warned in his virtual workspace about the adoption of a court document /order, ruling/, he can go to court and get a signed and sealed copy of the court document. To receive a signed and sealed copy of a court document, the user must submit electronic versions of the documents sent to the court

through the E-SUD (E-COURT) system. When the user submits documents in electronic form /version/ through the E-SUD (E-COURT) system to the court, the responsible officer of the Chancellery in accordance with the established procedure completes these documents in the form of a case and stores them with the registration number of the E-SUD (E-COURT) system assigned to them.

Taking into account the security requirements for electronic versions of documents, the responsible office clerk prints out the list of electronic versions of documents received through the E-SUD (E-COURT) system on a daily basis and stores it, attaching its number to the registration book.

By 2018, the national electronic court information system "E-SUD" (E-COURT) had been introduced in the activities of courts of our Republic in all 89 inter-district, district (city) and regional courts on civil cases.

It's worth mentioning that in the Republic of Uzbekistan the economic and legal basis has been formed for the protection of human rights and freedom in court, for the broad involvement of information and communication technologies, for the introduction of electronic judicial system in all territories of our country. The Decree of the President of the Republic of Uzbekistan "On measures for wider introduction of modern information and communication technologies in the activities of the courts" dated August 30, 2017 (Presidential Decree No. 3250) and the program of measures approved by him, as well as the Decree of the President (No. 4966) dated February 21, 2017 "On measures for radical improvement and increase of efficiency of the structural system of the court of the Republic of Uzbekistan" became the legal basis for even greater modernization of the judicial system and introduction of innovative technologies. In accordance with these documents, the programme of action planned for 2017-2020 has been applied in practice. In accordance with it, the following main objectives of the introduction of modern information and communication technologies in the activities of courts are identified: Achieve the degree / certainty / population about a fair trial; openness and transparency; efficiency, i.e. saving time; improving the quality of court proceedings.

According to Professor O. Okyulov, the use of the system "E-SUD" (E-COURT) by judges gives the opportunity to save up to 50% of time and court costs. The introduction of electronic court system reduces the number of direct visits to the court from 6-7 to 2-3 one-time, which makes it possible to reduce the cost of participation of the parties in court up to 10% [4].

Within the framework of the "Electronic Government" system developed in our country and for the purpose of information exchange between state authorities, departments and institutions through the "E-SUD" (E-COURT) system, connection to the "Interdepartmental Information Exchange Network" and to the "Electronic Gateway" has been made.

Seventy per cent of the cases heard in the second half of 2018 were resolved by the Judicial Chamber for Civil Cases of the Supreme Court, ensuring the

presence of the citizens themselves and their participation in the courts through videoconference.

According to statistics, between early 2018 and 2019 a total of 622,934 applications were received through the national electronic court information system E-SUD (E-COURT). 351,516 were applications for the issuance of court orders and 271,418 were applications for statement of claim. On the basis of the report on the 20th December 2018, 12765 users were registered in the E-SUD (E-COURT). The number of individuals is 9906, legal entities are 2084, and 505 lawyers are registered. The claims received electronically were mainly as follows: divorce - 25.5 per cent, confirmation of legal facts - 8.4 per cent, inconsistency of a person's name in the document of his/her fundamental right - 10.7 per cent, family relations - 9.5 per cent, debt collection - 6.7 per cent [2].

Another news about the development of information technologies and communications and their wide involvement in court activities is the introduction of online broadcasts of court proceedings. The new official website of the Supreme Court of the Republic of Uzbekistan, introduced in September 2018, was developed in cooperation with a joint project "Cooperation on the way to the priority of law in Uzbekistan". In introducing interactive services in this website, the latest achievements and opportunities of modern technologies were widely used. In particular, users through this website have easy access to information on criminal courts, civil courts, administrative and economic courts currently operating in four areas, information on which is available in two languages - Uzbek and Russian.

With the introduction of modern information and communication technologies, in particular the E-SUD (E-COURT) electronic court information system and the audio-video recording system, amendments and additions have been made to existing legislative documents.

At the same time, the codes establish the procedure for sending court documents, writ of execution, as well as sending court orders for execution in electronic version with electronic signature of a judge. There is a specific rule that provides for the initiation of cases in court in written form, including filing an application via mail or filing an electronic version [1].

www.incompetent.esud.uz has been developed - a database of information about individuals recognized by the court decision as incapable of contact / incapacitated, information on more than 6500 citizens has been collected until 2019 in this system. This database is connected to the information system "Notary" of the Ministry of Justice.

Methodological basis for the study.

In order to depict the chosen theme methods of national consciousness and special methods of scientific cognition, including official legal, comparative legal, system, analytical, content-analytical, logical-legal were used. The integrity of these methods makes it possible to a certain extent to ensure the validity of the scientific article.

The scientific-political as well as methodological basis of the article was formed by the provisions proclaimed by the President of the Republic of Uzbekistan on the implementation of the tasks outlined in the Strategy of Action for the Development of the Republic of Uzbekistan in five priority directions in 2017-2021, as well as proposals and recommendations to ensure a wide use of information and communication technologies in the activities of the courts, aimed at the efficiency of the judicial process and to increase public awareness of the justice, with an emphasis on the development of the judicial system.

The normative basis for the scientific article is formed by the rules set out in the Constitution and relating to the judiciary, court decisions in current legislation, procedural legislation relating to court documentation and the Supreme Court decisions on court documentation. The article was empirically based on an analysis of the statistical data maintained by the Supreme Court of Uzbekistan.

Conclusion

As a conclusion of the above mentioned provisions, it can be noted that the possibilities and advantages of an electronic judicial information system are manifested in the following:

- not being in the office of the court individuals and legal entities have the possibility to send at a distance through the Internet their appeals, i.e. statements of claim, applications, complaints, as well as documents attached in the form of an electronic version, and in court - to accept electronic versions of documents. This will lead to the end of difficulties, various bickering parties, paperwork and other excessive costs;

- the parties participating in the court and their representatives, the prosecutor, lawyers, and other persons will have the opportunity to be informed about the proceedings, i.e. to receive information on the readiness of the case for consideration, on the postponement, termination or outcome of the case through their online office;

- with introduction of the automatic program preparation of reports and the statistical data put in system in court activity there is a possibility to prevent errors, unreasonable carrying over of terms and other negative phenomena;

- the service "Government Duty Calculator" when addressing the court in the system indicates the amount of prepaid government duty.

- by means of the information system for confirmation of court decisions formed in electronic form, judges are provided with the keys of electronic

digital signatures of the State Tax Committee of the Republic of Uzbekistan - each domain certified by an electronic signature of a judge is accompanied by a QR code. Any remote user, via the Internet, using this code is able to verify the authenticity of the relevant court document.

- the Court Calendar service, by means of the name of the domain www.task.esud.uz, is available on the Internet, and more than 1,000 users have used the service until 2019.

The economic and legal base has been formed for wide involvement of information and communication technologies in court while protection process of human rights and freedom in the Republic of Uzbekistan, introduction of electronic judicial system in all areas of our country. For strengthening of efficiency of system "E-SUD" (E-COURT), taking advantage of the created possibilities, it is necessary to generate the system giving the chance to send directly to executive bodies the published electronic judicial documents from a virtual workplace of the judge. It would give possibility along with citizens to save also working time of executive bodies and to prevent excessive paperwork. At the same time, in activity of courts wide introduction of modern information and communication technologies will provide possibility of simplification of activity not only of civil, administrative, economic courts, but also to simplify office work of courts on criminal cases, by means of use of innovative technologies.

In future, it is possible to use videoconferencing in criminal courts to establish communication with persons held in pretrial detention facilities and places of detention (Estonian experience). If witnesses and experts are in the territory of another area or even other states, legal mechanisms should be established to enable videoconferencing. This would create a basis for saving time, material resources and, ultimately, legal costs.

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