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E-JUSTICE IN POLAND – POLISH EXPERIENCES

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Abstract. In his research article, "E-justice in Poland: Polish experience," the author discusses a relatively important subject that members of the society are likely to face, namely the use of modern Internet technologies and electronic devices in courts. At the outset, the author advances a thesis that today's societies around the world are no longer able to go without the Internet, social networks, electronic documents, and electronic means of remote communication. This is how people do business and maintain contact today. Technology has become embedded in our civilisation as its natural component. This is no different in the court room where modern communication tools serve citizens. The author looks at the technological solutions through the Polish experience, but also through the European experience, in particular CEPEJ operating under the Council of Europe. The author also addresses the important issue of artificial intelligence and indicates areas in the judicial system where it could be applied effectively. The article aims to stimulate a global discussion on e-justice.

Keywords: artificial intelligence; e-justice; digitalization; e-court

INTRODUCTION

Technological developments force us to continuously change and adapt to using new web applications and technical solutions. The technology of 4k televisions will soon become outdated, the 5G networks will be widely utilised, and a flight to the moon will be as accessible to the average person as the flight from Warsaw to Los Angeles. At present, we cannot imagine life without the Internet. E-mail is a commonly used tool for communication between citizens, while documents in the form of pdf files are beginning to replace paper documents. We can no longer imagine our lives without social media, we contact our loved ones through Facebook or Instagram and utilise constantly newer technological solutions. We have applications to buy public transport tickets, make an appointment with a dentist, or transfer money from a bank account. All these devices serve one purpose – to make it easier for us to move around in the public social space. It is difficult to turn back the course of history. Digitalisation has deeply penetrated our world. Consequently, this sphere of change must also affect the justice system.

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Hence, the courts are forced to implement newer technical solutions to enable the citizen to freely and fully use the innovations to pilot the course of court proceedings. Several decades ago, it was difficult to convince judges to prepare judgments and their justifications in a computerised version, whereas today, it is difficult to believe that this could occur differently. The changes in this respect are predominantly of a procedural nature, and thus must primarily affect the mechanisms of civil proceedings.

Two things should be assumed when determining the direction of changes in civil proceedings: proceedings must be faster and cheaper. These two elements are inscribed in the concept of technological development, because thanks to the use of modern technologies, the course of civil proceedings could be faster, and at the same time, due to the elimination of numerous expensive factors, cheaper. As Reiling [Reiling 2009, 17] believes "delay, access and corruption are three crucial issues any judicial organization or court faces. They are the three most common complaints of court users around the world." Now court users need more.[1]

The changes in the civil procedure regulations in the Polish legal system have recently affected several areas. First of all, the following were implemented: electronic writ-of-payment proceedings, submission of electronic applications in land and mortgage register proceedings, electronic registration of company – S24, electronic confirmation of receipt of judicial letter shipments by parties proceedings, system of random allocation of cases to judges as well as electronic system of case file management. New changes are already on the horizon – electronic bankruptcy proceedings. For the efficient functioning of the justice system, another element, which is of current interest to the whole of Europe in the field of the administration of justice, is necessary, i.e. weighing of cases. Efficient simulation of the course of a case would enable even distrubution of cases to judges, which would in turn result in the acceleration of the proceedings.

1. ELECTRONIC SYSTEM OF CASE FILE MANAGEMENT

The major technical changes, which had to be made by the courts in the first place, prior to the implementation of changes in the civil proceedings, concerned the need for an efficient electronic case file management system. The idea was that a modern case file management system was, in principle, to gather all information about the course of the proceedings in one place. The judges were convinced about the necessity to enter information concerning the judgement into the system, so that the attorneys could familiarise themselves with the activities currently undertaken

[1] See Dymitruk 2020, chap. XX, doc. 8.

by the court without having to leave their offices. This system fulfils its function as long as the information entered by the court's employees is entered reliably. It particularly allows saving time in activities aimed at determining the stage of the proceedings and concurrently reduces the need to contact court employees by phone, which considerably relieves them from the laborious activities consisting of providing information. The system is complemented by the possibility of obtaining more information about the course of cases at the Stakeholders' Service Office [pol. *Biuro Obsługi Interesantów*], the task of which is to serve petitioners only.

Thanks to the implemented system, officials can quickly identify the place where the case is located and efficiently undertake subsequent steps. Access to the record of the trial as well as to the content of issued rulings allows the parties to issue copies of rulings without undue delay. The date of a hearing can be set quickly and the statistical data on the settlement of cases in a specific division of the court as well as on the effectiveness of settling cases by a particular judge can be obtained instantly.

A disadvantage of the system is undoubtedly the fact that it was developed by IT specialists who were not lawyers. Hence, some solutions were not introduced intuitively. They have not been adjusted to the needs of the system and efficient handling of civil proceedings. System corrections are continuously being made to eliminate the indicated errors.

An important solution from the viewpoint of the implementation of the principles of trial economics would be the introduction of mechanisms that would alert the judge about the need to make a decision in cases, in which this decision has not been made for a long time. This would allow for supervision throughout the proceedings and would eliminate situations, where decisions are made slowly. Such prototype solutions are already being introduced in courts. Nevertheless, the system must respect the independence and sovereignty of judges [Allen 2020, 1; Gurkaynak, Yilmaz, and Haksever 2016, 8].

2. ELECTRONIC WRIT-OF-PAYMENT PROCEEDINGS

The global trend of replacing a paper document with an electronic one has also affected the justice system [Niiler 2019]. In Poland, it was decided to introduce electronic proceedings. Electronic writ-of-payment proceedings are a type of a civil procedure, which entirely takes place without any physical contact between the judge (here the court referendary) and the party to the proceedings and involves no paper records. However, all decisions are still sent to the parties to the proceedings by traditional mail. An advantage of these proceedings is undoubtedly efficiency, as the decisions are made

relatively quickly. The disadvantage, however, is that the court cannot read the evidence directly, which only the plaintiff invokes in their statement. The proceedings, however, concern the category of the so-called unquestionable cases, where as a rule, the fact that the claim arose does not raise any doubts, and therefore the case would also be met with a court verdict in a normal course of its examination.

Nonetheless, there are some opinions that the proceedings conducted in this manner have nothing to do with the administration of justice.[2] The decision is made without the participation of the party to be charged and without the possibility of their defence. However, such a allegation is missed, because the defendant can object to the payment order required in the electronic proceedings, which in effect results in quashing of the proceedings and the possibility to initiate the proceedings in the usual procedure. The problem is quite significant if the party does not react to the received payment order. There may be different reasons for this, including the delivery of the payment order to an incorrect and no longer valid address of the defendant. The latest amendment to the civil code in principle introduces the obligation to deliver court correspondence in the event that it is not received by the defendant at the address indicated in the statement of claim through a court bailiff. The bailiff's task is to establish whether the defendant actually resides at the given address.

This procedure is quite popular in Poland. Only in the first half of 2019, 1,169,944 claims were filed under those proceedings. For comparison, 6,659,082 cases were received in ordinary proceedings. Additionally, it should be noted that the so-called e-court is only a division of one of the courts in Poland, i.e. the District Court Lublin-West in Lublin. The previous legal regulation in this regard was subject to amendments in the legal provision, which was necessary. In the previous legal situation, when the court found no grounds for issuing a substantive trial decision in the form of a payment order, it transferred the case to the courts of general jurisdiction. Thus, the court had to deal with the case in ordinary proceedings. Consequently, this meant that the proceedings conducted in an electronic form were mixed with the ones carried out in a paper form. The court transferred the lawsuit electronically through a special system, while the traditional court had to print documents and use them to create case records. In the current legal situation, however, it has been decided that in a situation, where the electronic legal proceeding cannot end in a substantive manner, i.e. the court does not find any grounds for issuing a payment order, the e-court will dimiss the legal proceeding. Nevertheless, the plaintiff will have a period of 3 months for keeping the date of filing the lawsuit, which might affect,

[2] See Kościółek 2019, chap. 5, doc. 3.

for instance, the deadline for the statute of limitations, to file the lawsuit to the court in the traditional version.

On the one hand, this is a solution, which actually means that the proceeding will be carried out either completely electronically or in the paper form. On the other hand, it might discourage the party from initiating electronic proceedings at all. Hence, it seems more reasonable to introduce entirely electronic proceedings, including those conducted by traditional court, with the possibility, if necessary, of setting hearings in the court using video conferences (a great solution in this regard was introduced in Florida, i.e. "Florida Courts E-Filing Portal").[3] However, there is still a question about the effectiveness of such proceedings in a situation, where a witness might not have access to the necessary equipment or there are no appropriate statutory instruments that would allow the court to enforce their virtual presence in the courtroom. Undoubtedly, this depends on the level of technological development of a given country. Nonetheless, it should not be forgotten that for a suitable connection to the court, it is sufficient to have access to the Internet, which is already widespread, as well as to own a device, such as a smartphone, the number of owners of which is increasing.

3. SUBMISSION OF ELECTRONIC APPLICATIONS IN LAND AND MORTGAGE REGISTER PROCEEDINGS

In the Polish civil procedure, some of the court proceedings that allow electronic submission of applications include the land and mortgage register proceedings. Those proceedings are carried out by the court, although in most countries they have been excluded from the jurisdiction of the court and are the domain of public administration activities. In Poland, the land and mortgage register courts operate as separate divisions of the district courts, and the documents submitted to the land register are only in the paper form. The land register is kept both in the paper and electronic form. The paper form is a collection of documents, which among other things contain legal claims to properties. In contrast, the electronic form is only an electronic record containing the property designation and its owners as well as any encumbrances on the property, including mortgage charges.

The legislator in the field of land and mortgage register proceedings has allowed the possibility of initiating such proceedings by submitting an electronic application to the electronic version of the land resister. This application may only be submitted in this form by a notary public, bailiff or the head of the tax office. After the sale of a property conducted at the notary's office,

[3] The Florida Courts E-Filing Authority, https://www.myflcourtaccess.com/authority/links.html [accessed: 09.12.2020].

the notary public is obliged to submit an electronic application for entry of the new owner into the land register. On the same day, the notary sends the application electronically. Subsequently, the information about the application is recorded as a citation of its submission in the electronic land registry. The notary has 3 days to send the documents, which are the basis for the exposure of the new owner in the land registry. After the documents are submitted to the court, the case is assigned to a court referendary. The citation of the application is visible in the land registry until the entry is made or the application for entry is dismissed.

This form of submitting an electronic application significantly accelerates the land and mortgage register proceedings. This procedure is remarkably important to ensure property transactions; therefore, the emphasis on its speed plays such an important role. However, it seems that the method of submitting applications electronically adopted by the Polish legislator should also be extended to other participants. Other changes in the land registry, which are not a direct result of a sale transaction but depend on their initiators, i.e. applicants (e.g. an application for removing a mortgage from the land register), could also be made electronically. Nevertheless, it should be noted that due to their importance, the land and mortgage register proceedings could not be completely replaced by electronic proceedings. The role of the land and mortgage register court is to collect original documents confirming the legal status of the property, which can only be stored in paper form.

4. ELECTRONIC REGISTRATION OF A COMPANY – S2

As in the case of land and mortgage register proceedings, the procedure for entering a company is in the Polish legal system a registration proceeding. It is also conducted by the court, specifically by the economic court division – the National Court Register [pol. *Krajowy Rejestr Sądowy*].[4] The essence of those proceedings is that the court supervises the very fact of establishing a company as well as any changes concerning it. It should be noted that not all companies are entered into the register. Specifically, the basic form of a company, which is a civil partnership, has been excluded from the obligation to register. It is exclusively an agreement between at least two entrepreneurs, which is concluded for the purpose of jointly undertaking an economic activity.

The electronic application for company registration applies to a limited liability company, general partnership and limited partnership. Other companies cannot be currently registered in this way and in order to register

[4] Ministry of Justice in Poland, https://ekrs.ms.gov.pl/s24/ [accessed: 09.12.2020].

them, a traditional paper application should be used. The company must be registered electronically within 24 hours, which is the essence of this procedure. However, the legislator is considering extending the catalogue of companies that would be subject to registration in this way. The current form of company registration is an innovative solution, even though in practice, it is not always possible to issue a decision on company registration within 24 hours, as it is often necessary to implement a proceeding aimed at removing the formal defects of the submitted application by the applicant.

The condition for using this form of company registration is the need to register a user account, i.e. enter the user's identification data and set their profile. In addition, it should be indicated that that procedure enables changing the data in already registered companies as well as submission of the company's financial statements. Currently, the S24 portal allows for the change of the company's seat and address, subject of activity (PKD codes), composition of the management and the supervisory board at the same time.

When implementing an entry or a change, a set of necessary documents must be prepared. The content of the documents is then entered into the system, and each document must be signed by appropriate people. The signature may be a qualified signature or the document may be signed by a so-called Trusted Profile.

5. ELECTRONIC CONFIRMATION OF THE RECEIPT OF JUDICIAL LETTER SHIPMENTS BY PARTY PROCEEDINGS AND ELECTRONIC DELIVERY OF JUDICIAL LETTERS

A technical solution, which has been expected for quite a long time, and which significantly improves the course of civil proceedings, is the electronic confirmation of delivery to the party. Until recently, the only document confirming that a party to the proceedings had received a court consignment was a paper return confirmation, which was signed by the party to the proceedings in the presence of the postman during the delivery. The witnesses were served with hearing summonses in an identical manner. The content of the confirmation included information about the method of delivery of the parcel, date of receipt and whether the parcel was collected personally or delivered to an adult household member. The paper method of providing information was therefore predominantly associated with the late submission of information about the delivery or non-delivery of the parcel to the court. This undoubtedly affected the length of the proceedings and made it impossible for the court to issue a judgement in a situation, where there was no information about the delivery, e.g. information about the submitted claim to the party, and therefore determine whether

the lack of reaction from the defendant to the claim submitted by the claimant was a consequence of the failure to provide them with a copy of the claim as a result of the claimant's incorrect indication of the defendant's address, or whether it was dictated by other circumstances. This method of delivering consignments also determined the course of interviewing the witnesses. It was difficult to effectively establish whether the witness was correctly summoned to the trial date, which consequently often led to its postponement.

As a result, the legislator decided to introduce an innovative solution. At present, consignments are delivered in a traditional way; however, the confirmation of their delivery is provided to the court electronically. The postman goes to the place where the consignment is to be delivered (i.e. the place of residence of the party to the proceedings), and subsequently, during the delivery, asks the party to electronically sign for it on an electronic device. The information about the delivery of a consignment or the reasons for its non-delivery is sent electronically to the post office, and then forwarded to the court in the same manner.

An important advantage of such a solution is the improvement of the course of the proceedings. The information is updated in the case management system and, after entering the case reference number, the judge is immediately informed about the date and method of delivery. This allows them to immediately proceed with further procedural steps. The presented solution significantly accelerates the course of proceedings.

Nonetheless, further improvements of legal proceedings, including the possibility of sending correspondence to the parties by e-mail, are still being introduced. Obviously, this solution is technically simple to implement; however, it requires the introduction of legal regulations, which would allow the delivery to be considered effective under the law. The fact that the information reached the addressee and the addressee had the opportunity to become acquainted with it must be undoubted in legal terms. This technical solution is close to implementation. At present, the claimant in economic proceedings, or their representative, is required to provide an e-mail address. It is also a way to contact the court quickly.

In the current legal situation, final legislative work is being undertaken to introduce an act considering electronic delivery. It also introduces real changes in civil proceedings and allows for electronic exchange of correspondence between the court and the party, the delivery of which is to produce certain procedural effects. The introduction of innovative rules, however, requires the refinement of the existing ICT system, which would operate this communication method, and, as a result, issuing of appropriate regulations by the Minister of Justice after entering the act into force.

The constant development of the electronic correspondence between the parties to the proceedings as well as its other participants is important

from the viewpoint of civil procedure. In the currently reality, and therefore in a situation, where most citizens communicate electronically, this seems to be necessary. We live in the age of the Internet and access to the electronic network; thus, the version of paper correspondence is being displaced by it. The indicated legislative changes are also justified from a sociological point of view. Concurrently, it should be pointed out that an improper notification of a party to the proceedings about the date of a hearing might result in its invalidity due to the possibility of depriving the defending party its rights in the trial. Effective legal solutions in this area are therefore essential and necessary.

6. SYSTEM OF RANDOM ALLOCATION OF CASES TO JUDGES

Undoubtedly, an innovative solution in the Polish legal system, which actually applies to all proceedings conducted by courts, is the system of random allocation of cases to judges. From the viewpoint of functioning in the judiciary system, this regulation is relatively new and not devoid of critical assessments.

The key concerns associated with the administration of justice might be that cases are not fairly allocated to judges. Consequently, this leads to certain ambiguities. Firstly, cases could be identified differently depending on the legal position of a given judge. Secondly, considering the importance of cases and their level of difficulty, cases would burden one or more judges to a greater extent. As a result, the number of cases referred to a given judge for review would be greater than the number of cases referred to other judges. Such a situation could have occurred when in the previous system of work organisation, cases were assigned to judges by the President of the Division. Mutual sympathies and antipathies could unfortunately have been important here. Such elements cannot be excluded when the human factor is involved.

An element that seems to have quite significantly influenced the introduction of the system of random allocation of cases is that it can ensure that the judges are evenly burdened by cases. Additionally, considering the degree of difficulty of the cases, the system also assigns them evenly to judges. The above arguments indeed justify the claim that this system considerably improves and accelerates the course of the proceedings.

This system was introduced into the Polish legal system by the regulation of the Minister of Justice of 28 December 2017 and has been functioning in Polish courts since 1 January 2018. Thus, an evaluation of the system has already been conducted and its flaws have been identified. Some improvements are already being made.

The first premise of the system, which was necessary, was the division of the cases into categories. Each type of case (e.g. claims under a sale agreement, contracts for construction services, leasing contracts or divorce) has been provided with an appropriate statistical symbol. Subsequently, virtual baskets for drawing cases were created. Various cases were thrown into the baskets according to the indicative degree of difficulty. And so, for example: basket no. 1 includes cases considering claims regarding contracts for construction services, construction projects and currency derivative transactions. Within the given baskets, a draw takes place and the system assigns each judge an identical number of cases of the same category. This allows for the principle of objectivity to be respected when assigning cases to judges.

At the same time, it is worth indicating that the system contains a few more rules. First of all, there is a need to register a new case in the system within 14 days of its receipt in court. Moreover, drawings are usually held on working days at 8.00 pm. It is possible to draw multi-person court panels, e.g. a panel of 3 judges. Recently, an improvement has been introduced, which involves excluding judges from certain panels and the ability to evenly burden judges with adjudication in three-person panels.

The system also provides that judges, who are sick or are on holiday, are excluded from the draw. However, the condition is that this presence should last at least 4 working days. After a period of absence, the system starts assigning cases to judges until their papers are evened out.

The author of the idea also considered the aspect of the "weight of the case", which is quite fundamental.[5] The claims under a sales contract will not necessarily always be identical in terms of their degree of difficulty. The system assumes, however, that as default, each case has a weight status of "1". Certainly, the person operating the system can change it to a different level, which in effect means that the case is considered more difficult. The system will then draw fewer cases to a reporting judge, who received a more difficult case.

From a practical point of view, this solution is not entirely good and fair. It can be a space for manipulation. The ideal solution was to create a computer system that would analyse the probable course of the case and qualify its weight based on the case data. Such a solution would undoubtedly be desirable and is actually related to another issue raised in this article, namely the use of "artificial intelligence" in the justice system.

Several years of operation of the random case allocation system in Poland undoubtedly enables the identification of some disadvantages. First of all, it

[5] Council of Europe (CEPEJ). 2020. Case weighting in judicial systems. CEPEJ Studies no. 28, https://rm.coe.int/study-28-case-weighting-report-en/16809ede97 [accessed: 09.12.2021].

should be noted that sometimes the system assigns a large number of cases to judges, which is not justified. However, IT improvements have already been made in this respect. Moreover, the system does not identify situations, where a judge adjudicates in two divisions, part-time in each. When a judge is finally transferred to one division full-time, the system automatically completes their report to the full, including the whole year. Finally, the algorithm that the system uses to distribute cases is still unknown [Dervanović 2018, 209-34; Zagórna 2019].

Despite these few disadvantages of the system's operation, a number of its advantages should be recognised. In principle, it is an ideal tool to ensure that cases are assigned evenly to judges. It prevents excessive burden on one judge at the expense of another. Sociologically, it also has a positive effect on the morale of the work environment, as it enables working in an environment, where cases are distributed evenly and the speed of court proceedings is rewarded with a smaller burden. It solves many employee conflicts that may have been caused by the head of the unit, who assigned cases to judges in an unfair way, often only in their subjective opinion.

When assessing the system, one could be tempted to make some improvements. The possibility of dividing cases into more categories remains to be considered; however, in practice, this might also mean more errors. It is also difficult to predict a 100% identical scenario for the course of each case.

An improvement to the system would undoubtedly be the possibility of utilising "artificial intelligence", the main task of which would be to analyse cases in terms of the number of witnesses who have to be heard, the number of demands included in the suit, the complexity of the legal problem and the estimated duration of the proceedings. The results of such analysis would serve as a basis for assigning cases to a specific level of difficulty, e.g. on a scale from 1 to 5. If a judge draws cases with a higher level of difficulty, it would mean that they should have fewer of these cases. Such a solution would contribute to the fair distribution of cases among judges and, as a result, would affect the efficiency of the proceedings.

7. ELECTRONIC INSOLVENCY PROCEEDINGS

The novelty planned for 2021 is another electronic court proceeding. The Polish legal system also provided for the possibility of conducting proceedings in an electronic form in the case of insolvency proceedings. In the Polish legal system, it is a type of a legal proceeding conducted by the courts. The specificity of this proceeding is that after the declaration

of bankruptcy, the assets of the bankrupt are sold, and the funds obtained from this sale are divided among the creditors.

Electronic insolvency proceedings are in fact no different from other electronic proceedings. Documents as well as decisions of the judge-commissioner and bankruptcy court are submitted electronically via an ICT system.

What is important is that in the system supporting this proceeding, we will find information concerning it, in particular, the components to be sold from the bankruptcy estate, their estimated value as well as information about planned tenders. Conducting proceedings in such a system ultimately means that the proceedings become transparent for its participants, in particular for creditors, and therefore for those entities whose proceedings are in fact conducted [Goodman and Flaxman 2017, 56]. The main purpose of insolvency proceedings is to satisfy the claims of the creditors to the highest possible degree. There were many accusations that the bankruptcy trustee conducting the insolvency proceedings allocated too much money to the costs of the insolvency proceedings, sometimes suspiciously specially generated. Having electronic access to the case and all necessary information, the creditor is able to react in a situation, where the costs of the insolvency proceedings disbursed by the bankruptcy trustee raise their concern or the course of the insolvency proceedings is objectively too long.

Undoubtedly, electronic insolvency proceedings influence the transparency of these procedures and result in their improvement. The contact between the participants of the proceeding, the judge-commissioner, court and bankruptcy trustee is also easier. Introduction of this system is a good signal for further electronisation of other court proceedings.

8. CASE WEIGHT

An important issue for improving the course of civil proceedings is the need to create a solution, which would allow for an objective "weighing of the case". This aspect is significant because it influences the categorisation of cases and their assignment to judges according to "size/volume", and more specifically "difficulty". This is not an easy task and is the subject of many analyses, including those of the European Commission for the Efficiency of Justice (CEPEJ), which operates under the Council of Europe.

The basic method, which would enable categorising cases according to their degree of difficulty, is to direct the survey to the interested parties, i.e. the judges. They have the broadest knowledge on the cases they are conducting. It can be assumed that, for example, cases regarding claims under

a sales contract will as a rule be easier and shorter to handle than those concerning claims under a construction contract. However, this is not sufficiently obvious. One case concerning a sales contract might not necessarily be identical in course and difficulty to another case regarding the same claim.

Moreover, it should be noted that the degree of difficulty of a case will also depend on a particular legal system. Thus, the introduction of common determinators of cases, for instance, for all European countries, would also not be valid. The allocation of the case category ultimately depends on the legal provisions in force in a given country – in particular the procedural provisions.

The weight of a case will also often depend on the type of procedural steps that will need to be taken in its course, and this in turn is related to the issue of analysing the case progression. However, it should be pointed out that the basic method of categorising cases is the indicative determination of their progress based on the procedural steps that must be undertaken during their course. Establishing a certain time frame will enable "weighing of a case" and its classification into a specific category. Nevertheless, it is a plan for the future that requires the development of efficient case assessment methods.

The introduction of an efficient and reliable "case weighing" mechanism would also contribute to improving the control over the progress of the conducted proceedings. Taking into account objective factors, knowledge about the estimated time of examining a particular case would also determine whether the process of a given case was unjustifiably long. Consequently, we would have information about whether a particular judge is unjustifiably delaying the review request and whether they could hear the case faster without losing the quality of the judgment. Such knowledge would undoubtedly be valuable in determining a specific kind of time frame for ongoing court proceedings. As a result, it would improve their progression.

9. CASE PROGRESS ANALYSIS – ARTIFICIAL INTELLIGENCE

One of the methods, thanks to which the objective set out in the previous paragraph can be achieved, is to create a tool that would allow for an efficient analysis of a case and assignment of its category. Undoubtedly, bearing in mind the extensive developments in this area, we should undertake broader research in this direction.

The majority of the Internet computer systems used in our daily work are already based on artificial intelligence. It seems that artificial intelligence is able to carry out efficient analytical processes, the effects of which can

be used, for example, during the evaluation of research results in medicine. So why not be tempted to try out identical solutions in the judiciary system?

Research conducted by China revealed that artificial intelligence can be utilised to interview witnesses, and therefore collect information about the case and events related to the factual basis of the investigated claim. The procedures of most cases, especially the less complicated ones, are similar. Gathering of information on the actual state by the judge usually requires asking identical questions during the proceedings. When it comes to minor and simpler cases, the judges in China are replaced by special Internet applications [Lynn 2020]. An avatar, taking the form of a judge in an online communicator, asks the defendant questions about the incident (including the circumstances of the commitment of the offence) as well as the circumstances related to the claim. The avatar records, stores and then provides the judge with information [Flaga-Gieruszyńska 2019, 99]. The collected data is the basis for the judge's decision on the case.

Going even a step further could also be considered. It could be possible to allow artificial intelligence to propose a litigation decision, i.e. to let it settle a case after analysing the collected data and assessing the actual state. By providing information about the possible settlement of a case, artificial intelligence could propose them itself, comparing them with the applicable legal provisions. Certainly, the judge should make the final decision.

The same mechanism can be utilised to analyse the progress of a case that has not yet started. By providing artificial intelligence with information regarding the plaintiff's demands, the number of requested witnesses, the necessity to hear expert evidence (to what extent, etc.), it could develop a time scenario for cases, indicating how much time the judge should need to assess them. On the basis of the collected information, a case could be given a category and weight, which would effectively translate into a proportional distribution of cases between judges. A judge would get fewer cases requiring more time to be examined than those that are simpler. In fact, the activities indicated above could be performed by any court employee. However, in the case of human activities, such a process is associated with a higher risk of making errors and is more time-consuming.

At present, utilising artificial intelligence mechanisms in the judiciary seems to be a very good solution. The preparation of the case for examination, its assessment, and as a result assignment of its category could be conducted in an efficient and fast manner prior to sending it to the system of random allocation of cases. It seems that the chosen direction in the current age of omnipresent computerisation is necessary and inevitable. Nevertheless, it must not be forgotten that an artificial intelligence system cannot replace the administration of justice by judges, as only that guarantees respecting citizen's rights [Bues and Matthaei 2017, 89-109].

10. COURT RULING PORTAL

An institution in the area of e-justice, which has been successfully operating in Poland for many years, is the court ruling portal. Its formula in the Polish legal system provides for running the portal for judgments of common courts as well as the Supreme Court. Firstly, it should be noted that court rulings in the Polish legal system are announced openly, except for situations, where the openness of the proceedings is excluded by the court due to the circumstances provided by the law.

The court ruling portal is a database of judgments issued by courts. From the viewpoint of the interest in the study of law, access to judgments issued by the Supreme Court is more important, as it constitutes an image of the jurisprudence of the courts in Poland. The judiciary in the area of implementing legal provisions should be moving in this direction. Additionally, considering civil litigators, access to court rulings issued in a particular court is also important, as it determines the jurisprudence of a given court and significantly helps in formulating the content of charges in lawsuits and appeals.

Searching for information on the court ruling portal is conducted via a website, which contains a database of these judgments. The search is carried out by entering the file reference of the case, date of the decision or a word indicating the issue, in which we are interested. The system filters and displays cases from a given appeal, district or a specific district court. The rules of its operation are clear and the way of operating the system is simple.

The main drawback of the system is that the database of judgments is relatively sparse, in particular with regards to the courts of the general jurisdiction. The reason is definitely the fact that the courts themselves do not enter their rulings into the portal. The result is that the access to it is not very helpful for third parties. The blame lies with the courts of general jurisdiction, which do not popularise their rulings on the portal and do not publish them there. There are also no specific technical solutions, which would allow for rapid publication of court rulings on the portal.

In order to improve the functioning of the system, it might be necessary to postulate that courts of general jurisdiction make their decisions publicly available on the portal, as it constitutes a valuable base and knowledge about the jurisprudence of courts. In practice, the parties to the proceedings, and in particular their representatives, make much greater use of the portal of Supreme Court's decisions, as the information contained therein is more comprehensive. In addition, all of the most important and relevant decisions of the Supreme Court, together with their justifications, are published there.

CONCLUSIONS

In an era, where the access to the Internet is already a natural phenomenon, it is difficult to conclude that the courts could do without it. The electronic forms of documents and communication between citizens and institutions are displacing the paper forms. It is an irreversible process primarily due to the speed of communication as well as the low costs of its use and service.

Legal proceedings must be therefore based on the use of the indicated electronic instruments. It seems that the worldwide trend in this respect is already settled and targeted. We are currently conducting court hearings using electronic instruments for video conferencing and communicating with the participants of the proceedings via e-mail.[6] Moreover, as the example of China demonstrates, avatars are questioning witnesses and parties to the proceedings electronically, collecting information about a specific event, both for the purposes of criminal and civil proceedings.

The future of the judiciary is already known. Court records will be kept in an electronic form, court cases will be held through video conferences and we will start using other electronic instruments to accelerate the course of the proceedings.

Nevertheless, at present, another important challenge lies ahead. The judiciary should be supported with such electronic instruments, which would allow the case to be analysed by a system that would propose a procedural decision ending the case. Thus, we must start making greater use of artificial intelligence in the judiciary and creating systems of efficient case analysis, which would consequently constitute a reliable source of events reconstruction, eliminating the possibility of decision errors. In fact, law is the most exact field among other humanities. Hence, in a way, we can substitute actual events in a "formula", i.e. in legal provisions, so that the analysis of individual elements gives us an almost mathematical result.

However, it should not be forgotten that the judiciary is held by the courts, while the decisions are made by judges who take into account not only purely legal and factual issues, but also human factors.[7] Therefore, when passing a judgement, particularly in criminal proceedings, it is necessary to consider and assess the chances of improving the attitude of the accused, or for example in civil proceedings, to take into account the motivation that supported the specific action of the accused. It is essential to assess whether there are any grounds for justifying their actions. The issues of empathy cannot be irrelevant to the court case either. Artificial intelligence will not replace

[6] See Bieluk and Marciniak 2016, chap. 2, doc. 6.

[7] See Chłopecki 2021, chap. 4.

this analysis. Thus, it should be clearly emphasised that the courts cannot ultimately be replaced by avatars of judges, who would make the final procedural decision[8] [Martsenko 2020, 158]. Since the administration of justice is exclusively a human domain, it should remain the same.

In the near future, the implementation of intensive measures is therefore recommended to further electronise and digitise the judiciary to the fullest extent. New forms of technological solutions, and in particular the experiences of individual countries in this area, should be the subject of common exchange and analysis [Bundin, Martynov, Aliev, et al. 2018, 171-80]. The technological solutions will be useful for everyone and the level of computerisation of the judiciary will be the same throughout the world only by joining forces. It should not be forgotten that computer scientists, who are also lawyers, should be involved in the development of IT tools to a greater extent, because only they would be able to combine their knowledge of the functioning of procedural institutions with the adopted computerisation of proceedings as well as understanding of IT tools that could be used in the administration of justice.

Consequently, the actions taken should contribute to the improvement of the course of legal proceedings, which is a challenge for all legal systems [Płocha 2020, 287-88]. We must also not forget that courts are institutions, which are supposed to serve citizens, and the indicated facilitation of the access to court, and in conclusion, of the course of the proceedings, are to contribute to a better comfort of participation in these proceedings by citizens who take part in it, regardless of which side of the process they are on.[9] Finally, it should be emphasised that court proceedings should, above all, be fast, because only a quick decision is a guarantee of the efficiency of the courts. Additionally, court proceedings should be cheap, which can be ensured by the wider use of online electronic technological solutions.

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[8] See Kościółek 2019, chap. 5, doc. 5.

[9] See Goździaszek 2015, chap. 1.

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