

E-access to justice in Poland

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Abstract

The purpose of this article is to present the right of access to court as a guarantee of the implementation of the principle of good governance. The author of the article reflects on the actual fulfilment by Poland of the right to effective access to justice, in particular in the field of enabling remote access to justice.

The article presents the achievements and negligence in the field of digital access to justice on the example of Poland. In her article, the author analyses the actions taken in the field of digitization of the judiciary and prosecutor's office resulting from the need to adapt the above-mentioned institutions to operate in the conditions of the COVID-19 pandemic and related restrictions. Particular analysis will be given to the possibilities of access to justice in the field of access to documents, digitization of files, court protocols, cooperation of the judiciary with other entities, e.g. Councils of Bars and court experts.

The aim of the article is to assess the changes undertaken and their actual effectiveness for all participants of the justice system – administrative staff, judges, prosecutors, participants in court and preparatory proceedings and their professional attorneys.

Keywords: access to court, digitization of justice, impact of COVID-19, the principle of good governance

1.Introduction

Technological development has had a significant impact on all areas of modern life. Currently, the development of the Internet and communication tools allows solving many problems with the use of a smartphone, and interpersonal communication is significantly carried out using Internet tools. The Internet is used for work, learning and fun, and interpersonal contacts can be maintained without much difficulty despite the distance. The telephone and the Internet connection have become the first source of information and searching for solutions to existing problems. The need to access services from home or telephone forces changes and the need to create easy access to services, without the need for a personal visit to the company, office or court. Changes are necessary not only in the private market, but also in administration, including court administration. "E-Justice" is a part of e-government that needs to be formed in a modern, responsive and effective way to meet the needs of modern citizens (users). Generation Z, born after 1990 and accustomed to the presence of new technologies in their daily lives, entered the labour market, and thus the arena of litigation. The expectations of this generation are high, they are used to adapting the environment to their requirements, and therefore

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these expectations from everyday life are also transferred to the expectations regarding the operation of the state administration.

The administration of justice is one of the pillars of a democratic state ruled of law², and ensuring access to justice is one of the fundamental human rights, and its implementation is the task of governments and state administration bodies. The meaning of the term "accessibility" in connection with the changing society and the development of technology is extended to include further attributes that prove the real ease of using the services of the judiciary and its efficient functioning.³ The linguistic concept of accessibility means the ease of reaching the destination without obstacles. In the 21st century, one of the main obstacles to access to justice is its traditional formula, which does not keep up with the achievements of science and technology. At the beginning of the third decade of the 21st century, the traditional model no longer fits into effective accessibility, creating difficulties for the parties of the proceedings, which translate into a real possibility of active participation in their own court case. The pace of life, the rush associated with everyday life, as well as the need to use traditional solutions adopted in court procedures cause growing frustration among the participants of proceedings related to the inadequacy of the judiciary to the present times.

The assessment of the effectiveness of access to justice should always be made on the basis of current knowledge and technical possibilities, as well as the needs of society. Solutions that worked in the middle or even at the end of the 20th century should be critically assessed in the third decade of the 21st century. The COVID-19 pandemic⁴ has clearly shown that access to the court must also be maintained in unusual, crisis situations, limiting the possibility of movement or direct contact, and therefore the digitization of the justice system is necessary and should not be carried out on an ad hoc basis.

This article aims to assess the effectiveness of access to justice understood as e-access to justice. As part of this work, the manifestations of e-access to the justice system in Poland will be analysed, taking into account the situation before and after the COVID-19 pandemic.

2. Methodology

While working on this article, the author set herself the task of analysing three issues:

- (1) the state of digitization of the Polish justice system at the beginning of the third decade of the 21st century,
- (2) the strategy for the digitization of the judiciary in Poland;
- (3) the impact of the COVID-19 pandemic on accelerating reforms for the digital transformation of the justice system.

As part of the collection of research material, an analysis of legal provisions introducing e-access to the justice system in Poland was used, statistical data provided by the Ministry of Justice, reports created by judges' associations, in particular regarding the impact of the pandemic on the judiciary and business associations, press articles and data from the Open Data portal . All the above studies were used to analyse the current state as well as legal and factual changes related to the COVID-19 pandemic.

When analysing the available materials, great importance was placed on comparing the conclusions drawn by various circles participating in proceedings before courts and prosecutors. For the purposes of this article, no comparison with solutions available in other countries was made, because the strategy of building e-access to justice should first start

² Article 2 of the Constitution of the Republic of Poland *The Republic of Poland is a democratic state governed by the rule of law, implementing the principles of social justice.*

³ The right to a court, understood as a guarantee of the efficient functioning of the judiciary, is of key importance for the implementation of the principle of good governance.

⁴ The global pandemic of the infectious disease COVID-19, caused by the SARS-CoV-2 coronavirus, began in November 2019 in the city of Wuhan, Hubei Province in central China, and was recognized by the World Health Organization (WHO) on March 11, 2020 for the pandemic.

with a detailed analysis of the current state, both in terms of the possibility of simplifying court procedures and existing IT solutions, only followed by the adoption of solutions from other countries. The lack of a good analysis of one's own legal order may lead to the transfer of solutions not adapted to the Polish procedure.

The author, based on the analysis of conducted research and based on her own practical experience related to running a law firm, analyses the way of making changes in the field of digitization of the justice system in Poland, with particular emphasis on its judicial stage.

3.The situation of Poland

3.1 Justice

The assessment of the state of e-access to the justice system in Poland must first be preceded by establishing basic data on the Polish justice system. For a better understanding, it is necessary to present figures illustrating the situation of Poland at the beginning of the third decade.

The population of Poland was approximately 37,767 million at the end of 2022. There are 46 regional courts and 318 district courts in Poland. In 2021, over 14,400,000 cases were filed with common courts in Poland. The average duration of proceedings before a district court in Poland lasts about 5.5 months⁵. At the end of 2018, there were 9,776 judges in Poland, including 9,240 in first instance courts⁶. In 2022, there were 8,560 practicing attorneys in Poland, 2,089 non-practicing attorneys, and 5,277 trainee attorneys. In addition, in 2019 there were approximately 47,000 legal advisers in Poland.

There are approximately 40,000 employees working in common courts. Additionally, in the field of justice, approx. 6,000 prosecutors and approx. 8,000 employees of public prosecutor's offices should be taken into account. Notaries also have contact with the administration of justice in the field of submitting applications for entry in the land and mortgage register, and bailiffs in the field of court executions.

The implementation of qualitative e-access to justice services will undoubtedly affect their daily work, which should contribute to the improvement of services for the target beneficiary, i.e. a Polish citizen using court services.

3.2 The state of digitization of Polish justice in 2020

In 2020, the state of digitization of the Polish justice system was far from the best Scandinavian models, in particular Estonian solutions. It is worth emphasizing that compared to digitization solutions in other departments of administration, it also left unsatisfied. In 2020, the vast majority of several million court cases were heard in the traditional form using paper court records, traditional hearings, postal correspondence requiring the use of registered mail.

At the beginning of 2020, just before the outbreak of the pandemic, it was possible to use the following common court services remotely:

⁵ These statistics, however, have been significantly distorted by excluding cases for granting an enforcement clause to be considered as a separate case. This procedure resulted in a significant improvement in the statistical period of examining the case.

⁶ Evaluation of the judicial systems (2018–2020), The European Commission for the Efficiency of Justice, s. 19 zob. <https://rm.coe.int/en-poland-2018/16809fe2e9>.

- conducting electronic writ of payment proceedings (EPU)⁷;
- searching for entities in the National Court Register (eKRS)⁸;
- verifying the authenticity of printouts from the National Court Register (eKRS);
- browsing Court and Economic Monitors (eMSiG);
- as part of the S24 platform - registration of a limited liability company, general partnership, limited partnership (S24);
- searching for debtors in the register of debtors (eKRS);
- reviewing financial documents of companies (eKRS);
- downloading certificates from the National Criminal Register in a remote form (eKRK)⁹;
- browsing the land and mortgage register via the Internet (eKW)¹⁰;
- obtaining copies of land and mortgage registers (eKW);
- obtaining a certificate of closing the land and mortgage register by electronic means;
- obtaining the possibility of self-printing a document with the power of an extract from the land and mortgage register (eKW);
- enabling verification of documents downloaded from the system (eKW);
- access to the Register of Sex Offenders¹¹;
- access to the Portal of Judgments of Common Courts containing anonymized court judgments¹²;
- after creating an account, access to the Common Courts Information Portal, which allows you to check the dates of meetings, the stage of the case, the content of the minutes or the possibility of listening to them, or performed court actions.

Moreover, at that time, the System of Random Case Assignment to Judges (SLPS) was in operation, whose task was to draw judges at random to decide on a case submitted to the court and ensures the participants of the trial that no one has the possibility to interfere in the drawing of teams. In principle, this system is invisible or almost invisible to the participant in the proceedings, because only the result of such a draw is printed in the case files, and therefore for the participant in the proceedings it is not a change that will significantly affect the handling of his case.

The system of recording hearings was already quite common in the courts, although it did not apply to all cases.

It is worth emphasizing that computerization is developing faster in the administrative judiciary. The Act of 10/01/2014 amending the Act on computerization of the activities of entities performing public tasks and certain other acts introduced provisions on administrative proceedings in electronic form to the Act of 30/08/2002 - Law on proceedings before administrative courts.¹³ On May 31, 2019, parties to proceedings were allowed to submit pleadings to administrative courts in electronic form, to receive court correspondence in this form, and to gain access to court files online.

The above list of cases in which it was possible to provide services in the field of justice is not very extensive. When analysing the individual activities listed on the list, it should be noted that the digitization of the judiciary is carried out slowly, chaotically and fragmentarily. There is no visible plan in the activities undertaken by the ministry, both in terms of the work undertaken and the way of communicating the change to the participants of the proceedings, including

⁷ A type of separate civil proceedings in which the facts are not complicated and do not require evidence

⁸ <https://ekrs.ms.gov.pl/>

⁹ <https://ekrk.ms.gov.pl/ep-web/>

¹⁰ https://ekw.ms.gov.pl/eukw_ogol/menu.do

¹¹ <https://rps.ms.gov.pl/pl-PL/Public#/>

¹² <https://orzeczenia.ms.gov.pl/>

¹³ Bulejek R., Matarewicz J., Electronic communication of the party and its attorney with the court in the course of administrative court proceedings, *Palestra* 3/2023, p. 62

citizens. In 2016, the e-court (EPU) was blocked due to the fact that technical solutions were not adapted to the introduced changes related to the calculation of interest. By introducing the change in the provisions on interest rates, the *vacatio legis* of the Act was not adjusted, thus not giving programmers a chance to adapt software solutions to the new regulations.¹⁴

When analysing the list of available services, it should be noted that when building digital solutions, work was first undertaken on the digitization of registers,¹⁵ i.e. procedures resembling typically administrative services, requiring the examination of an application or the provision of a document. While the digitization of repetitive activities is the recommended solution, it should not be forgotten that a significant part of the justice system boils down to handling the process of court cases, and changes are the slowest there. In the opinion of citizens, a number of the above activities, such as providing access to documents or submitting applications, are not associated with the administration of justice, but with administrative bodies. Of the above-mentioned proceedings, only the Electronic Writ of Payment Proceedings constituted the entry of technology into the process of court proceedings.

It is also worth emphasizing that each of the above processes was carried out as a separate project and is not joined by any party that brings together all available access services to the judiciary. Even a superficial analysis of the appearance of each of these tools, also indicates that the interfaces of portals created to recognize each of the above-mentioned cases were created in a different way, and therefore did not meet the principle of friendliness within the principles of good administration. This confirms the lack of consistency of the actions taken. From the perspective of the goal of digitization of the judiciary, the actions taken until 2020 are important and useful, but too slow and dispersed for the Polish justice system to be effectively called "accessible".

The reasons for the above should be sought in the digitization strategy of the Polish judiciary, or rather the lack of it.

3.2. Road without map

The plans for the digitization of administration in Poland are based on the Integrated State Informatization Program for 2019-2022. This program defines the government's assumptions regarding the development of Polish public administration using modern digital technologies¹⁶. The document is general in nature and refers to many government activities related to digitization. A number of annexes refer to individual scopes of tasks related to digitisation. However, a dedicated strategy for the computerization of the judiciary, constituting a well-thought-out plan with assigned tasks and deadlines, has not been created. It is worth emphasizing that strategies are the basic document for predicting and controlling the future, necessary in the field of enterprise or project management. Strategies in state or local government administration are a natural phenomenon, and yet for such an important project as adapting the judiciary to the needs of modern times, no strategy for the digitization of the judiciary has been created.

This approach may not come as a surprise, as only one in four companies in the private sector has a digitization strategy, but it seems that modern administration should be required to create such a document. From the point of view of strategic management, this means that the entire process of change is carried out without an analysis of the entire judiciary, analysis of needs, stakeholders, selection of key activities, assignment of priorities for individual activities of the legislator, and consequently in a way that does not allow for the determination of measures and verification of the

¹⁴ The Ministry agrees to the paralysis of the Electronic Writ of Payment procedure,

<https://prawo.gazetaprawna.pl/artykuly/943696,paraliz-systemu-elektronicznego-postepowania-upominawczego.html>

¹⁵ Gołaczyński J. (red.), *Informatyzacja ksiąg wieczystych i postępowania wieczystoksięgowego*, Warszawa 2020., s.4

¹⁶<https://www.gov.pl/attachment/01509ecb-0efc-44c5-b517-46b044634db5>

effectiveness of the implemented solutions . The actions taken to digitize the judiciary are in fact targeted at particular types of cases, without analysing their priority, and may also lead to the creation and duplication of identical solutions when digitizing various proceedings. This is a serious failure to properly manage the change process.

The above thesis is confirmed by the 2020 report of the Supreme Audit Office on the implementation of IT projects aimed at improving the justice system. The authors of the report concluded from the analysis of the changes made so far that the conducted computerization of the Ministry of Justice did not proceed in a planned and reliably prepared manner, in particular, it was not preceded by the development of a strategy for computerization of the judiciary, which would help define priority tasks and divide their implementation into specific deadlines, as well as determine the measures of individual projects.¹⁷ As a consequence, the digitization of the judiciary is divided into a number of separate computerization processes that are not connected in any way top-down. It seems that the implementation of the digitization of the judiciary is an *ad hoc* solution and is carried out fragmentarily in those fields that seem to be the most sensitive at the moment.

This thesis is repeatedly repeated by various circles commenting on the changes taking place in the functioning of the judiciary. The report by Maciej Trocia - Digital Transformation of Polish Courts, published in July 2021, also indicates the lack of strategic and planned actions. needs of citizens appearing without professional legal assistance in court.¹⁸The above means that negligence related to the lack of preparation of the strategy leads to erroneous recognition of the purpose of the digitization process. The current activities are aimed at improving the work of people professionally involved in the administration of justice, which does not mean that the beneficiaries of the introduced changes will be people for whom the court performs a "service". In the author's opinion, incorrect recognition of the final beneficiary of the changes (the person for whom they are made) may lead to the belief that the judiciary does not introduce any changes to facilitate citizens' access to the court.

4. The impact of the pandemic on changes

The pandemic that appeared in Poland in 2020 has become a great opportunity to test real access to justice in an extreme situation. The outbreak of the pandemic has become a real challenge for state administration around the world. This challenge has also exposed the state of adjustment of the judiciary to crisis and unusual situations. It should be emphasized that Poland did not face the problem of epidemics in the 20th century, apart from the smallpox epidemic in Wrocław in 1963¹⁹, and therefore on a smaller scale and in completely different times. The Polish judiciary had no action plans prepared in the event of a crisis preventing it from working under normal conditions, and all decisions and procedures were created on the basis of the need of the moment.

At the beginning of March 2020, due to the spread of COVID-19, the functioning of the judiciary was significantly limited to urgent cases.²⁰ The announcement of the Ministry of Justice of March 12, 2020 indicated that the catalogue of urgent cases was changed many times during the pandemic, and the scope of restrictions and limitations related to pending proceedings evolved many times.

From the perspective of the goal of effective access to court, the pandemic accelerated the reforms for the digital transformation of the justice system and allowed to overcome the barriers related to the prejudices of the participants of

¹⁷ <https://www.nik.gov.pl/kontrola/P/19/038/>

¹⁸ Troć M., Digital transformation of Polish courts, WEI, July 2021, <https://wei.org.pl/wp-content/uploads/2021/07/Transformacja-cyfrowa-polskich-sadow.pdf>

¹⁹ Tychmanowicz M., Black Death - smallpox epidemic in Wrocław <https://wiadomosci.wp.pl/marta-tychmanowicz-czarna-smierc-epidemia-czarnej-ospy-we-wroclawiu-6031561824064641a>

²⁰ <https://www.gov.pl/web/sprawiedliwosc/komunikat-w-sprawie-organizacji-pracy-sadow>

digitization. Despite these positive aspects, one should also notice the threats that result from the consolidation of makeshift and chaotic solutions.

The year 2020, and with it the COVID-19 pandemic, meant that adapting the regulations and technical possibilities of access to the court was related to maintaining the continuity of the judiciary in this crisis period. It is a period of weak legislation and repeated amendments to regulations, introduction of short-term solutions and frequent changes in the introduced regulations. During the pandemic, many legislative changes were ad hoc and focused on enabling the judiciary to operate at least partially. Due to the changing guidelines in the initial period of the pandemic, both the court administration and the ministry took a number of variable orders trying to develop strategies for dealing with an unprecedented crisis on a national scale. During this period, due to the need to adapt a number of activities, no time was devoted to building a well-thought-out strategy for the development of remote access to justice, because this period was devoted to the fight to maintain the continuity of the justice system. The management of the digitization process in this period was therefore limited to crisis management and creating solutions for the needs of the moment, rather than implementing well-thought-out solutions.

The prolonged state of the pandemic has led to the conclusion that the judiciary cannot function only in its classical shape. Both the private market and administration authorities understood that the condition for maintaining business continuity is the transfer of the entity's operations to remote work. In countries where the computerization of the justice system was more advanced, dealing with the pandemic was easier. The adjustment of the judiciary was more difficult than that of the private sector, due to the specific role of the prosecutor's office and the judiciary in society, as well as previous negligence in the field of computerization or employee training. During the pandemic, the circles working for the administration of justice, as well as legal professional self-governments, became strongly involved in controlling the introduced reforms and their impact on maintaining the right to a fair and fair trial, as well as the transparency of conducted proceedings. These comments should be used to create a strategy for the digitization of the judiciary, and the voice of business and legal circles should be included in its implementation. It should be emphasized that currently the work of the problem team at the Ministry of Justice includes representatives of the National Chamber of Legal Advisers²¹ and the Polish Bar Council²² on the social side, as well as a representative of the Center for Competence and Computerization of the Judiciary at the Court of Appeal in Wrocław and the Deputy National Coordinator for the Computerization of Common Courts²³.

It is worth emphasizing that when collecting observations on the state of digitization of the judiciary, one should also listen to the grassroots voices of judges and prosecutors. In 2021, the report "The judiciary during COVID-19 - a report on the assessment of the impact of the COVID-19 pandemic on the justice system in Poland" was published, commissioned by the Association of Polish Judges IUSTITIA²⁴, whose authors set themselves the goal of developing guidelines and recommendations related to the computerization of the judiciary and created in response to the crisis caused by the coronavirus pandemic. This report analyses the digitization of the judiciary and its neglect from the point of view of court employees, in particular judges. However, the biggest drawback of the aforementioned analysis is a strong narrowing of the optics of changes, which the digital systems necessary to introduce analyse only in terms of the work of the judges themselves.

²¹ The National Chamber of Legal Advisors is the national body of the professional self-government of legal advisors practicing the profession of public trust.

²² The Polish Bar Council is the national body of the professional self-government of advocates practicing the profession of public trust.

²³ The National Coordinator is responsible for the substantive side of the implemented IT projects in common courts with regard to the implementation of the IT project of the system for recording the course of court hearings.

²⁴ Begier A., Wypych-Knieć A., Małecki-Tepicht Ł., The judiciary during COVID-19 – impact assessment study report of the COVID-19 pandemic on the judiciary in Poland https://www.iustitia.pl/images/pliki/e-Raport_COVID-19-opt.pdf

COVID-19 in the field of the judiciary has made two significant changes related to court proceedings. First of all, it led to the launch of the possibility of electronic service of court service within the existing Information Portal of Common Courts. In the field of electronic deliveries, the already existing tool was used, which is the Common Courts Information Portal. The portal was originally created for information purposes and allowed for a "preview" of the activities performed in the case, but it was not adapted to make court deliveries, and the ministry was working on a different delivery system, but its creation would not be possible in such a short time. During the pandemic, the need to regulate the issue of deliveries was extremely important, especially in the first phase of the pandemic, when the effects of the virus had not yet been fully recognized and the precautions taken were very far-reaching (the obligation to socially isolate). During this period, the working hours of post offices were significantly reduced, which directly affected the work of legal representatives, but also of the parties to the proceedings, who were significantly limited in their right to effective access to court. During this period, the work of all participants of the judiciary was the most difficult, because the number of clients admitted formally decreased, most cases except urgent ones were cancelled, but correspondence was still sent to the parties and attorneys, and the difficulties related to receiving and performing professional activities piled up. The attorneys and the parties pointed to difficulties in accessing the files of pending court proceedings due to the limited possibilities of receiving clients by the court reading rooms, which directly affected the reliability of the performance of the tasks entrusted to the attorneys.²⁵ The information chaos combined with the fear of the virus led the legislator to decide to suspend court dates by law, which was done for some time during the pandemic.²⁶ According to Art. 46 point 20 of the Act of May 14, 2020 amending certain acts in the field of protective measures in connection with the spread of the SARS-CoV-2 virus (Journal of Laws, item 875) - hereinafter "amending act", effective May 16, 2020 was repealed Art. 15zszs of the Act of March 2, 2020 on special solutions related to the prevention, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them (Journal of Laws, item 374) - hereinafter "the amended act" It is worth emphasizing that before there has been a suspension of deadlines this change has indeed been announced in the media. Legal changes related to the pandemic were first communicated, and only later were legal provisions created. Thanks to measures such as suspending deadlines, time was gained to create a provisional solution that would allow for electronic deliveries. The reconstruction of the existing system enabled the court to deliver documents to professional attorneys and register the time of their receipt in order to control the timely performance of obligations. After entering it into the system, the proxy could download the letter, and the time stamp for downloading the letter was treated as the date of its delivery. Over time, the Information Portal was adapted to make deliveries by creating a separate tab for receiving deliveries and creating confirmation of receipt of electronic mail, similar to the official confirmation of receipt used, for example, when submitting tax returns. The introduced changes led to the decision to permanently introduce electronic deliveries to professional attorneys. This change forced professional attorneys to have an account on the court portal. The currently reviewed amendments intend to introduce this obligation directly into the acts of bar association.

In the author's opinion, this important change is the first step in enabling the attorneys to deliver documents remotely in the course of court proceedings in the future, which will not only speed up the circulation of documents, but will also allow the use of electronic letters to more efficiently create justifications for judgments. The existing legal solutions limit electronic deliveries only to one-sided deliveries between the court and the attorney, and therefore it is still necessary to maintain the classic infrastructure and the system of traditional document circulation.

Secondly, the pandemic has led to the creation of remote hearings. Of this type

²⁵ Rojek-Socha P., In the era of COVID-19, difficult access to court files - the Ombudsman intervenes again, <https://www.prawo.pl/prawnicy-sady/w-dobie-covid-19-trudny-dostep-do-sadowych-act-re-again,503211.html>

²⁶ article 15zszs of the Act of March 2, 2020 on special solutions related to the prevention, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them (Journal of Laws, item 374) - hereinafter "the amended act".

the solutions currently operate on the basis of the Act of March 2, 2020 on special solutions related to the prevention, counteraction and combating of COVID-19, other infectious diseases and crisis situations caused by them (Journal of Laws of 2021, item 2095, as amended, hereinafter: "anti-COVID-19 Act") and are temporary. Both of these activities were not possible before COVID-19 and it seemed that they would not be introduced into the Polish legal order for a long time, despite ongoing work on electronic deliveries. The term "remote hearing" should be understood as a hearing conducted remotely, with the use of technical devices enabling the simultaneous transmission of image and sound. The consequence of the lack of time to implement well-thought-out solutions in the field of remote hearings was the introduction of temporary solutions. This led to frequent technical problems, including failure to provide a link to the hearing, problems with the parties connecting to a remote meeting, as well as difficulties related to hardware deficiencies, such as the lack of a camera or microphone at the parties to the proceedings. Despite these difficulties, remote hearings were perceived as a useful solution. The changes forced by the pandemic have dealt with the prejudice that this form of conducting hearings is not appropriate for the judiciary and may lead to the loss of the institution's dignity.

Considering the number of negative consequences of the pandemic - its incredible success was the fight against attachment to the traditional justice system, which shuns modern solutions. In the clash of values, which is health and human life, the slightly conservative legal environment allowed both the possibility of electronic deliveries and remote proceedings. A discussion has begun in legal circles about the need to comprehensively adapt the system to ensure the possibility of remote participation in hearings also after the end of the pandemic. The Ministry of Justice has therefore started work on the permanent introduction of the above legal solutions to the Polish legal system. According to the announcement of the Ministry of Justice, since July 2020, a total of approx. 146,000. hearings²⁷. It is worth noting that the development of remote hearings imposes an additional obligation on the judiciary to take care of cybersecurity.

Work is currently underway on a draft act amending the Act - Code of Civil Procedure, the Act - Law on the Organization of Common Courts, the Act - Code of Criminal Procedure and some other acts, marked with list number UD262²⁸. The project justification indicates that the purpose of the proposed changes is to permanently introduce the possibility of conducting remote meetings into the proceedings and to permanently introduce the possibility of serving court documents to attorneys using the information portal²⁹. On page 50 of the draft justification, it is indicated that the introduction of the above changes results from the verification of the above provisions based on the so-called "covid regulations" in relation to civil matters. At the same time, the draft provides for the extension of the use of deliveries via the portal also to criminal proceedings, which should be considered a step in the right direction.

It is also worth noting that at the end of 2021, the National Prosecutor's Office completed the implementation of the System for the Digitization of Criminal Proceedings Files³⁰, which gives the possibility to view digitized files of preparatory proceedings without the need to review classic files, especially in remote prosecutorial units. The aim of the project was to increase the degree of participation of the parties in the activities undertaken in the preparatory proceedings. The system evokes extreme emotions among its users, employees of the prosecutor's offices working on the system complain about its complexity and the transfer of a number of technical activities to them in order to transfer files to a remote form.³¹ On the one hand, voices are raised about its erroneous operation, on the other hand, it gives the opportunity

²⁷ <https://pap-mediroom.pl/polityka-i-spoleczenstwo/ms-sady-pracuja-szybciej-komunikat>

²⁸ <https://legislacja.rcl.gov.pl/projekt/12354100>

²⁹ <https://legislacja.rcl.gov.pl/docs//2/12354100/12835414/12835415/dokument614716.pdf>

³⁰ <https://portalzewnetrzny.prokuratura.gov.pl/>

³¹ Rojek-Socha P., The National Prosecutor's Office boasts of the new system, employees praise it much less, the National Prosecutor's Office praises the new system, employees praise it much less, <https://www.prawo.pl/prawnicy-sady/nowy-system-w-prokuraturze-stanowisko-prokuratury-krajowej.512478.html> [access 29.04.2023]

to read the files (provided they are digitized) without having to read them at the prosecutor's office. A great advantage of the system is the ability to send digitized files to other entities, e.g. the police, as part of its assigned activities.

Thanks to remote hearings, a number of court disputes, which could not be recognized in the first stage of the pandemic, were brought to trial and did not generate delays. Participants in the proceedings also noticed an additional advantage related to remote hearings, i.e. the fact that both the participants in the proceedings and the parties do not have to appear for questioning in the court building, which significantly saves time on the way to and from the court, as well as travel costs to the hearing. The possibility of remote participation in the hearing also created an easier opportunity for professional attorneys to participate in long-distance hearings, without the need to travel to a distant court. Above all, however, these changes meet the needs of the parties to the proceedings, for whom coming to court was often associated with the need to devote a whole day of work, and not only the actual time of the hearing.

Despite the positive direction of changes, it still seems that the experiences of individual stakeholder groups have not been gathered in one place in order to create a common strategy for the digitization of the justice system. Joint action of all representatives of legal and even business circles is necessary to achieve the best effects of computerization of the judiciary. The existing teams both within the state administration and professional self-governments should put more emphasis on designing changes not only from the point of view of specific professional groups, but above all from the point of view of the participant in the proceedings.³² Although judges' and prosecutors' associations, as well as professional self-governments, give their opinion on the proposed changes to the regulations, in the opinion of the author of the text, their participation in the conceptual work on the strategy of the judiciary is too small. In the author's opinion, the specificity of the administration of justice requires an analysis of the proposed solutions in the context of the coherence of the entire legal system, and in this respect, close cooperation of various environments so that the created digitization strategy meets the criteria of many stakeholder groups.

At the same time, it should be emphasized that further design of changes without basing them on the specific needs of both process participants and professional representatives. It is impossible to allow the entire digitization to be aimed only at facilitating the work of the court or attorney, without taking into account the interest of the client himself.

4. How to understand access to justice in the 21st century?

The accessibility of the judiciary is an element of the theory of good governance, i.e. a concept combining the principle of transparent operation of public administration with its transparency, effectiveness in meeting human needs, as well as the responsibility of the administration's actions³³. The "Accessible Court" in 2023 is a court operating on the basis of the latest technological achievements, providing tools for effective communication with the justice system, eliminating redundant and duplicated technical activities and ensuring the possibility of initiating proceedings online, but above all transparent and understandable by citizen, allowing the case to be examined without undue delay. In conclusion, the effectiveness of access to court should be assessed based on the needs of the user.

First of all, it is reasonable to create a strategy for the development of the digitization of the judiciary, taking into account its stages, priorities and deadlines. The main stages of the development of the digital justice system include:

³² CEPEJ (European Commission for the Efficiency of Justice) Declaration: Lessons learned and challenges faced by the judiciary during and after the COVID-19 pandemic, Strasbourg, 10.6.2020.

³³ Podgórnjak-Krzykacz, Impact of Governance and good governance on the structure of local government administration, *Acta Universitatis Lodzianis, Folia OECONOMICA* 3 (321), 2016, <http://dx.doi.org/10.18778/0208-6018.321.08>

1) communication with the court using remote tools, 2) conducting court hearings via teleconference, 3) access to digitized files, 3) simplifying the issuance of copies of judgments and orders, 4) enabling the transfer of the database as part of referring the case to court from the prosecutor's office, 5) digitization of registers.

The implementation of the above postulates, in the author's opinion, will allow to take into account the actual efficiency in access to justice, significantly facilitating the performance of repetitive activities, but also removing the need to serve the client from the court staff. An additional advantage of the computerization of the judiciary is making savings in terms of expenses for servicing the above-mentioned entities. services. According to Estonia's estimates, their consistent investments in new technologies in the judiciary have resulted in government savings of 50% in terms of staff maintenance and office space, without compromising stakeholders or the quality of work performed.³⁴ Eliminating technical and repetitive activities allows the use of staff to perform substantive work and not only administrative work.

In the author's opinion, an "accessible court" is also a court that takes into account the change that has taken place in communication between people and takes into account the implementation of electronic communication to legal regulations, as well as making it easier for a citizen acting independently to obtain the necessary documents or information. Currently, both in private life and in business, the use of electronic communication is common, taking into account the possibility of verifying identity, whether by signing with a trusted profile or electronic signature, and therefore these solutions should be largely transferred to court proceedings and used as part of service to the court or between agents. The above-mentioned signatures should permanently enter court proceedings, making it possible to eliminate the paper circulation of documents in favour of the electronic circulation of documents.

When analysing the need to digitize the justice system, it is impossible not to mention the need to adapt it to the user's impressions and experiences when using the product (so-called user experience). Testing solutions aimed at facilitating access to the judiciary or prosecutor's office cannot be based only on the criterion of a technical solution, but also on the basis of ease of access. As in the field of traditional services, remote services should be provided with a coherent form of the court portal. It would be advisable for e-access to the justice system to be also user-friendly, i.e. to assume one access point or at least a uniform interface. Many reports commenting on the digitization of the judiciary raise the concept of creating a "single digital window" for the purpose of settling court cases, modelled on the same institution in proceedings regarding the registration of business activity. The idea of "one digital window" or simply the consistency of the appearance of the created services should be treated as an important element of building digital administration.

4.1 Different stakeholders

It has already been noted above that different priorities in terms of functionality and the order of changes introduced may depend on the role we play in contact with the justice system. The accessibility of the Polish justice system should be assessed in terms of three categories of stakeholders: parties to the proceedings and professional attorneys, other participants in the proceedings or institutions, e.g. Each of the above groups will see different priorities in terms of the order in which the digitization of the judiciary is introduced, depending on the points of contact of activities performed together with the judiciary.

³⁴ Rękawek-Pachniewicz M., Modern legal solutions in Estonian court land registers as an example of effective use of IT instruments and IT and legal cooperation DOI: 10.5604/01.3001.0015.5423

4.2 Accessibility of the justice system for participants in proceedings and professional attorneys

First of all, it should be emphasized that the parties appearing in court cases without professional attorneys and the parties having an attorney in the form of a lawyer or legal advisor may assess the progress of work on the digitization of the justice system in a different way. Regardless of their role, participants in proceedings and their attorneys strive to:

- enabling the submission of court cases electronically (with acknowledgment of their receipt);
- obtaining information about the status of the case in real time by electronic means (via the information portal);
- the possibility of two-way communication with the court using electronic tools and the Internet (in order to obtain knowledge about the case, submit a letter in the case);
- digitization of files and the possibility of viewing them without the need to visit the court;
- introduction of a remote hearing to the proceedings in a permanent manner;
- introduction of electronic enforcement titles (to enable their electronic transfer to parties or court bailiffs as part of enforcement);
- introduction of electronic submission of applications for the issuance of copies or excerpts from files (without the need to visit the court, as in the case of applications for the issuance of excerpts from the Land Register);
- Introduction of an electronic signature and a signature through a trusted profile for court proceedings (facilitating the submission of letters electronically while ensuring verification of the identity of the person signing the letter);
- a safe environment to perform all of the above tasks.

The accessibility of the justice system for professional attorneys also means the possibility of submitting electronic invoices for activities performed in cases ex officio, the possibility of getting acquainted with evidence after its receipt by the court. It is also worth emphasizing that for this accessibility to be effective, court systems should be integrated with digital tools created by legal self-governments.

4.3 Accessibility of the justice system for other entities

In addition to the parties, court proceedings are incidentally attended by: experts (they give opinions on cases pending on the court, submit bills for activities performed), professional self-governments of advocates and legal advisers, which, in accordance with the civil procedure, appoint attorneys ex officio to conduct civil cases, as well as non-governmental organizations admitted to the proceedings pursuant to article 8 Polish Code of Civil Procedure³⁵.

These entities are interested in:

- creating a coherent and secure remote communication system without the need to send letters in the traditional way;
- digitization of files and creation of an on-line document sharing system;
- creating the possibility of creating, signing and sending documents in the course of the case;
- automatic transfer of data to the representative appointed by the self-government body to conduct the case through integrated with professional self-governments;
- creating a calendar of availability of experts or attorneys;³⁶
- creating electronic lists of attorneys ex officio updated on an ongoing basis (without the need to update them manually).³⁷

³⁵ Dz.U.2021.1805 t.j.

³⁶ Małecki-Tepicht Ł., The digital revolution in the judiciary - an overview of the areas and tools that strengthen the efficiency of the judiciary, „Iustitia”, nr 4/2019

³⁷ § 6 of the Regulation of the Minister of Justice of September 28, 2020 on how to provide the accused with the assistance of a public defender, Journal of Laws 2020.1681

4.4. Accessibility of the justice system from the point of view of employees of the justice system

As far as employees of the judiciary are concerned, first of all, it is necessary to introduce electronic circulation of documents and eliminate the existence of several systems for handling the administration of the judiciary, in particular in terms of the impossibility of combining them. From the point of view of court employees, it is necessary to:

- creating the possibility of conducting local and remote hearings;
- creating access to case files via the Internet, allowing the court and the parties to work on the files at the same time;
- creation of a qualified electronic seal of the court;
- introduction of electronic and trusted signatures into court proceedings;
- development of internal software ensuring ongoing access to the necessary databases, including public registers;
- the possibility of issuing electronic enforcement titles;

However, planning the implementation of new digital solutions within the judiciary requires an analysis of solutions adopted in other countries, especially in terms of good practice.

5. Summary

The analysis of the presented research and publications leads to the conclusion that despite several years of work on the digitization of the justice system, real progress in the field of e-access to the court has accelerated during the COVID pandemic. In the author's opinion, the main neglect in the field of e-access to justice is the lack of a coherent strategy for the development of this branch of administration. The lack of proper analysis and drawing conclusions makes it difficult to correctly diagnose the needs related to the digitization of the judiciary and prosecutor's office. Failure to draw up a document indicating the main tasks facing the ministry in the field of developing access to court leads to a number of actions being taken in a non-systemic manner. At the same time, projects are developed for the needs of individual problems, without a holistic view of the justice system as a whole. The actions taken to adapt the changes are aimed primarily at improving the effective work of judges, sometimes attorneys of the proceedings, but they do not always meet the needs of the participant in the proceedings, and in accordance with the principle of good governance, it is this group in particular that should be affected by the changes aimed at improving access to court. It is also necessary to designate a body responsible for bonding all undertaken changes and supervision over the implementation of the created strategy.

It needs to be emphasized that the enthusiasm present in all environments regarding the changes aimed at increasing e-access to the court may not be sustainable, hence the need to use it to build a strategy for the digitization of the justice system divided into specific stages of proceedings and improvements for various stakeholder groups. It should be emphasized that in addition to digitization plans and its stages, sources of financing, cost estimates, it is also necessary to take into account the needs of individual groups participating in the work of the judiciary. It is important that the widest possible group of representatives of the legal professions, expert organizations, associations of judges and prosecutors, advocates and legal advisers participate in the consultations on the strategy for digitization of the judiciary. Developing a strategy will make it possible to build a "road map" of changes that will be introduced in the judiciary, and which will undoubtedly contribute to improving the quality of access to the court or the prosecutor's office. Improving the quality of e-access to the justice system undoubtedly has an impact on building citizens' trust in the state. As a result of the computerization of the judiciary, it becomes more friendly to both stakeholders and employees of institutions such as

courts and prosecutor's offices. The above seems particularly important, because the labour market is an employee's market, and frequent changes of employees of the court or prosecutor's office are not conducive to the quick and effective operation of the justice system. It is also necessary to reevaluate the role of the employee and arrange his work in such a way that he would like to work in the court administration, which is undoubtedly influenced by innovations at work.

However, the condition for real success in reducing the duties of employees is the correct operation of the programs and their good design, because otherwise they can cause accumulation of work, which leads to frustration, fatigue and professional burnout. Currently, the judiciary is struggling with a huge amount of statistical, technical or reconstructive work, resulting from the lack of compatibility of systems or tools that collect data on their own. In the author's opinion, the success of the digitization of the judiciary and prosecutor's office lies in the correct development of the strategy. Developing a coherent, well-thought-out strategy for the development of computerization of the justice system is important for building a digital justice system, continuing work without a plan will only cause further difficulties and contradictions in the system, which will require additional financial outlays. The lack of creating a strategy for changes, lack of their analysis and chaotic selection of goals for subsequent digitization projects contributes to difficulties in building a simple, coherent and intuitive program for managing the digital development of the judiciary, and also contributes to an increase in its costs. Scientific research shows that countries with the highest budget for the judiciary are most often countries that have an inefficient judiciary and are not digitized.

Although the Ministry of Digitization boasts of the rapid development of digital services in the judiciary, their analysis in the context of the 2005 Act on computerization of the activities of entities carrying out public activities should be considered a very slow and bumpy road. Until the pandemic, it seems that the computerization of the judiciary in fact concerned court registers and ensuring the possibility of recording hearings or meetings. This is too little, bearing in mind that several million cases go to the courts every year. In this context, the greatest merit for changing the worldview and accelerating activities conferring the creation of e-access to justice was brought by the pandemic. May it contribute to long-term and well-thought-out changes in digitization.

Bibliography

1. Begier A., Cebula R., Małecki-Tepicht Ł., Plaskacz M., Wypych-Knieć A., Żółtak U. Promises and reality – statistics of district courts after five years of “reforms” (2015–2020);
2. Begier A., Wypych-Knieć A., Małecki-Tepicht Ł., Judiciary during COVID-19 - report on the study of the assessment of the impact of the COVID-19 pandemic on the justice system in Poland https://www.iustitia.pl/images/files/e-Report_COVID-19-opt.pdf;
3. Bulejek R., Matarewicz J., Electronic communication of the party and its attorney with the court in the course of administrative court proceedings, *Palestra* 3/2023;
4. Evaluation of the judicial systems (2018-2020), The European Commission for the Efficiency of Justice, p. 19 see <https://rm.coe.int/en-poland-2018/16809fe2e9>;
5. Gołaczyński J. (ed.), Computerization of land and mortgage registers and land and mortgage register proceedings, Warsaw 2020.,
6. Gołaczyński J., Zalesińska A., New technologies in courts on the example of videoconferencing and submission of pleadings and electronic deliveries in the era of the COVID-19 pandemic, "Monitor Prawniczy" 2020, No. 12.

7. Gołaczyński J., Dymitruk M., Remote hearing and electronic deliveries in the era of the COVID-19 pandemic after the entry into force of the amendment of May 28, 2021, "Monitor Prawniczy" 2021/13,
8. Gołaczyński J., Kotecka-Kral S., Electronicization of pleadings, deliveries and public hearings in civil proceedings during the COVID-19 pandemic, "Polish Civil Process" 2020/4
9. H. Izdebski, Legislation on COVID-19 and statutory legal nihilism [in:] The COVID-19 pandemic and the rights and freedoms of the citizen, ed. T. Gardock, D. Jagiełło, Warsaw 2021,
10. Jarzmus K., Szwed M., E-dissertations in Polish courts How the COVID-19 pandemic affected the work of Polish courts, Helsinki Foundation for Human Rights, Warsaw 2021, https://www.hfhr.pl/wp-content/uploads/2021/03/E-rozjacy_Analiza.pdf [access: 07.04.2023]
11. Maciejewska E., Why don't courts work remotely? FWS, <https://forumfws.eu/inicjatywy-lokalne/sedziowie-lodzcy/sady-praca-zdalna> [accessed May 9, 2023]
12. Małecki-Tepicht Ł., The digital revolution in the judiciary - an overview of the areas and tools to strengthen the efficiency of the judiciary, "Iustitia", No. 4/2019
13. Markiewicz K., Computerization of civil procedure - de lege lata and de lege ferenda [in:] Examination proceedings in the future Code of Civil Procedure, ed. K. Markiewicz, A. Torbus, Warsaw 2014
14. The Ministry agrees to the paralysis of the Electronic Writ of Payment Procedure <https://prawo.gazetaprawna.pl/artykuly/943696,paraliz-systemu-elektroniczny-postepowania-upomniwczego.html>
15. Podgórnjak-Krzykacz, The impact of governance and good governance on the structure of local government administration, Acta Universitatis Lodzianis, Folia OECONOMICA 3 (321), 2016, <http://dx.doi.org/10.18778/0208-6018.321.08>
16. Rękawek-Pachniewicz M., Modern legal solutions in Estonian court land registers as an example of effective use of IT instruments and IT and legal cooperation DOI: 10.5604/01.3001.0015.5423
17. Rojek-Socha P., The National Prosecutor's Office praises the new system, employees praise it much less, <https://www.prawo.pl/prawnicy-sady/nowy-system-w-prokuraturze-stansko-prokuratury-krajowej,512478.html> [accessed April 29, 2023]
18. Rojek-Socha P., Advocates and counselors are to have accounts in the court portal, but the regulations are still full of holes, <https://www.prawo.pl/prawnicy-sady/obowiazkowe-konto-na-portalu-informacyjny-sadu-dla-adwokatow-i-radcow,521130.html>
<https://www.prawo.pl/prawnicy-sady/obowiazkowe-konto-na-portalu-informacyjny-sadu-dla-adwokatow-i-radcow,521130.html>
19. Troć M., Digital transformation of Polish courts, WEI, July 2021, <https://wei.org.pl/wp-content/uploads/2021/07/Transformacja-cyfrowa-polskich-sadow.pdf>
20. Tychmanowicz M., Black Death - smallpox epidemic in Wrocław <https://wiadomosci.wp.pl/marta-tychmanowicz-czarna-smierc-epidemia-czarnej-ospy-we-wroclawiu-6031561824064641a>
21. Żączkiewicz-Zborska K., Administrative courts work on-line and do not create arrears, <https://www.prawo.pl/prawnicy-sady/skargi-on-line-i-papierowe-w-sadach-administrative,499358.html>