

## **Current Issues in Digital Transformation of Litigation and Their Improvement**

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**The relevance of the research topic.** The 21st century is the era of information and digital technologies. In the conditions of global digitization of all spheres of activity in most countries of the world and the rapid implementation of computer technologies and information systems, which affect, in particular, the activities of the judicial authorities, there arises a legitimate question about the preservation of the significance of the individual in the virtual, modern reality, which, one way or another, implies understanding the practical aspect of the problem. Among the priority areas of development in digital Uzbekistan are the issues of building electronic justice.

The Constitution of the Republic of Uzbekistan (new edition<sup>1</sup>) establishes that everyone has the right to defend their rights and freedoms by all means not prohibited by law. Everyone is guaranteed judicial protection of their rights and freedoms, the right to appeal in court against illegal decisions, actions or inactions of state bodies and other organizations, and their officials. Everyone is guaranteed the right to have their case considered by a competent, independent, and impartial court within the legally established timeframes. In accordance with the legislation and international treaties of the Republic of Uzbekistan, everyone has the right to appeal to international human rights bodies if all available domestic legal remedies have been exhausted. Everyone has the right to compensation from the state for harm caused by illegal decisions, actions, or inactions of state bodies or their officials. (Article 55.) Additionally, Article 31 of the Constitution of the Republic of Uzbekistan states that every person has the right to privacy, personal and family secrets, and the protection of their honor and dignity. Everyone has the right to the confidentiality of correspondence, telephone conversations, postal, electronic, and other messages. Restriction of this right is permitted only in accordance with the law and based on a court decision. Everyone has the right to protect their personal data, as well as to demand the correction of inaccurate data, and the destruction of data collected about them illegally or no longer having a legal basis.

Based on the Constitution of the Republic of Uzbekistan, it should be noted that everyone has the right to use electronic courts in accordance with legislation. Electronic justice is a new and complex phenomenon in terms of content. The informatization of judicial systems through the use of IT technologies is today one of the most advanced methods of improving the level of accessibility and quality of justice not only in Uzbekistan but also in the world. International rankings play a crucial role in enhancing the country's reputation globally, strengthening its position, and ensuring transparency. In the 2022 international ranking, Uzbekistan's role in the field of digitalization has notably increased. According to the World Bank's "GovTech Enablers"

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<sup>1</sup> The current new edition of the Constitution of the Republic of Uzbekistan was adopted by a nationwide vote in the referendum of the Republic of Uzbekistan, held on April 30, 2023. // National Database of Legislation, 01.05.2023, No. 03/23/837/0241.

index, the country climbed 65 steps in digital skills and innovations in public services compared to 2020. In the "GovTech Maturity Index" results, the country rose 37 levels in the sector of government and public services, ranking in group "A" of leaders in digital transformation among 198 countries. In the "E-Government" rating for the current year, Uzbekistan climbed 18 positions and entered the category of "high/very highly developing" countries. In the "Oxford Insights" analysis of the "Government Readiness Index for Artificial Intelligence" in 2022, our country rose 14 steps among 160 countries. According to 2022 data from "Open Data Inception," Uzbekistan ranked 4th with 124 open data sources among 201 countries in terms of open data sources and their quantity.<sup>2</sup>

Researchers believe that in the near future, the development of information technologies will lead to face-to-face hearings for a wide range of cases involving small amounts, as well as undisputed cases, transitioning to an online format. This will ensure promptness and accessibility of justice for the participants of the process.<sup>3</sup> Despite existing challenges, conducting legal proceedings digitally offers several advantages: Electronic processing of procedural documents speeds up paperwork and reduces government expenses on mailing correspondence. E-justice allows citizens to save money and time associated with physically attending court or having their representative do so, thus facilitating access to legal proceedings regardless of the parties' locations. If a case is considered by a court, participants can already submit appeals and send necessary documents electronically, track case progress online, and attend court sessions via video conference. The implementation of digitalization and changes in procedural legislation in this regard is quite active, but it also shows that the process is still in an active phase and not all parts of the judicial system are developing evenly. Nonetheless, courts today perform a significant number of tasks online – forming a court panel for a specific case using an automated electronic system; processing documents received electronically; sending electronic documents to participants and interested parties; electronically notifying individuals involved in the case through restricted access on the court's official website, SMS alerts; displaying case progress and document movement on the court's website; using video conferencing, audio and video recording of court sessions, their audio protocol, and internet broadcasts; issuing judicial acts in electronic form, and converting court archives to digital format. At the same time, all norms regulating the introduction of e-justice elements in Uzbekistan are implemented subject to the technical capabilities of the respective court. The procedure for submitting a petition to the court, in terms of procedural consequences, differs depending on the form of submission: in paper or electronic format.<sup>4</sup>

In the USA, an electronic court system operates successfully with free access. – PACER<sup>5</sup>. Using this system, one can obtain information about a legal document, familiarize themselves with the registry of filed applications, study the progress of a case and the history of decisions made, and view the calendar of scheduled hearings. In Canada, upon the request of a party to the proceedings, the court may decide to conduct electronic legal proceedings. In this case, the parties themselves must specify how the hearing should be conducted and what technologies should be used. A paperless legal system is widely used in Canadian courts of all levels and involves the use of online document submission, electronic access to court protocols, disclosure of information, and the use of technology in the courtroom. In Argentina, a software application is already functioning that can analyze submitted documents and prepare drafts of final judicial

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<sup>2</sup> <https://yuz.uz/ru/news/tsifrovizatsiya-uzbekistan-podnimaetsya-vverx-v-mejdunarodnx-reytingax?view=uzbekneftgaz-i-tsentr-tsifrovoy-transformatsii-podpisali-memorandum-o-tsifrovom-razvitiiv-napravlenii-promshlennoy-koooperatsii>

<sup>3</sup> Gaimaleeva, A. "Digitalization of the Judicial System: Analysis of the Trends in the Development of Procedural Legislation (Based on the Example of the Project of Changes in the Civil Procedural Code of the Russian Federation)." *Legal State: Theory and Practice*. 16, 4-2 (April. 2020), 28–39. DOI:<https://doi.org/10.33184/pravgos-2020.4.21>.

<sup>4</sup> Transformation and Digitalization of Legal Regulation of Social Relations in Modern Realities and Conditions of the Pandemic: a collective monograph / Edited by I.V. Vorontsova. - Kazan: Otechestvo, 2020. - 415 p.

<sup>5</sup> <https://www.pacer.gov/>.

acts for certain categories of civil and administrative cases. The procedure for adopting such a judicial act involves its mandatory verification and approval by local judges, and notably, the vast majority of draft judicial acts are approved without any changes. In the Republic of Estonia, the development of similar software is actively underway, with the goal of automating the consideration of the vast majority of disputes. In Germany, to use electronic justice and the administrative mailbox EGVP, one must install a free program. EGVP allows for the submission, reception, and processing of documents, receiving automatic email notifications, etc. Additionally, through a paid personal account, one can discuss with the opponent and contest the documents they present. Judicial decisions are made in electronic form and published on official websites. In Singapore, the electronic court system eLitigation is only accessible to law firms and government organizations. To access it, one needs a state-issued electronic identifier, SingPass. Through the system, one can submit electronic documents to the courts; store, retrieve, and update case materials; send legal documents to law firms using eService; receive notifications and warnings related to cases; create reports, and search for processed cases using quick access.

As we see it, the necessity of creating and operating digital courts in Uzbekistan is justified by the following objective civil law and information-communication factors: Firstly, the volume of electronic commerce is growing, with an expansion of interregional and international supplies of domestic goods, works, and services. Secondly, there is a need for rapid and high-quality protection of property and non-property rights. Thirdly, participants in a specific legal relationship, including on the Internet, are often in different jurisdictions and/or at a significant distance from each other. Fourthly, there is a regular need to check counterparts (including obtaining information about their activities in courts and legal claims against them). Fifthly, the possibility of identifying a person and organization using an electronic signature. Lastly, the presentation of documents in electronic form, etc. The translation of the statement is: "In accordance with the Resolution of the President of the Republic of Uzbekistan dated September 3, 2020, No. 4848, "On measures for the digitalization of the activities of judicial authorities"<sup>6</sup>" The implemented measures in recent years for the widespread introduction of modern technologies in the activities of courts have provided an opportunity to liberalize the institution of citizens' and business entities' access to courts for the protection of their rights and interests, to enhance the level of justice, and to ensure the openness and transparency of the courts' activities as a whole. In accordance with the Resolution of the President of the Republic of Uzbekistan dated January 16, 2023, No. UP-11, the short-term Strategy for raising the judicial system to a new qualitative level for 2023-2026 was approved.<sup>7</sup> One of the primary objectives identified for ensuring justice in Uzbekistan is the complete digitalization of court activities, the introduction of artificial intelligence technologies, improvement of inter-departmental electronic data exchange, and expansion of remote participation possibilities in court hearings. Additionally, the Supreme Court is establishing a Situational Center for Information and Communication Monitoring.

The Center's tasks include online analysis of the situation related to case handling across all Uzbekistan courts, monitoring procedural order and deadlines, analyzing crime and offenses by categories, enhancing the legal culture, and preparing data for dispute resolution. Therefore, Uzbekistan is gradually implementing electronic justice. The E-SUD system, developed in 2014 in collaboration with the Supreme Court of Uzbekistan, USAID, and the UNDP's "Rule of Law Partnership in Uzbekistan", aims to improve the process of handling cases, ensure openness and transparency in the judicial system, eliminate bureaucratic barriers, and enhance accessibility to justice, creating a more convenient environment for citizens.<sup>8</sup> With the help of the E-SUD

<sup>6</sup> The National Database of Legislation, 04.09.2020 y., № 07/20/4818/1255

<sup>7</sup> The National Database of Legislation, 18.01.2023 y., № 06/23/11/0033

<sup>8</sup> The Uzbekistan E-SUD electronic court system was among the finalists at the World Justice Forum. <https://sud.uz/ru/sistema-elektronno-go-sudoproizvodstvo/#:~:text=%D0%A1%D0%B8%D1%81%D1%82%D0%B5%D0%BC%D0%B0%20E%2DSUD%20%D1%80%>.

system, you can submit applications via the Internet, statements of claim to the courts, receive court decisions and notices in electronic form. There is also automatic preparation of court documents and decisions based on developed samples and templates, automatic distribution of civil cases among judges, database search, automation of a single database of court documents, preparation of court reports in an approved form and much more.

### **Conclusions and suggestions.**

1. Despite the adoption of various targeted short-term programs for the transformation of judicial proceedings, digitalization of judicial authorities and procedural reform, the related online dispute resolution via the Internet unfortunately does not meet modern digital requirements. In this regard, and taking into account the best experience of foreign countries and the practice of implementing programs for the digitalization of judicial activities, it is necessary to develop a long-term Strategy in this area. A deep and systematic analysis shows that a holistic unified long-term strategic concept for the creation of digitalization of judicial authorities in Uzbekistan has not yet been sufficiently implemented, taking into account Uzbekistan's place in international rankings and indices and modern requirements for dispute resolution via the Internet. In the new conditions of natural and virtual reality, the process of integrating digital technologies into legal proceedings, regardless of their procedural form of specialization, is still seen as non-vector and unsystematic, taking into account the most effective mobile Internet technologies.
2. Digitalization of the activities of judicial authorities is the application and use of information and communication technologies in the judicial process that allow performing procedural actions in digital form, and electronic support of judicial activities.
3. The recognized procedural form of digitalization of the activities of judicial authorities is electronic court proceedings, which is the procedural activity of the court for the consideration and resolution of court cases based on the use of information and communication technologies via the Internet. At the same time, it is necessary to state the conclusion that the system of digitalization of the activities of judicial authorities forms a complex technological structure: It is a set of independent and interacting elements as forms of application and use of information and communication technologies in the judicial process, united in order to solve the problems of justice in the new conditions of digital reality.
4. Artificial intelligence of the court is understood as a set of technological solutions related to digital judicial activity, which allows simulating human cognitive functions and obtaining results comparable, at least, with the results of human intellectual activity when performing specific tasks.
5. The special regime for the introduction of artificial intelligence means the creation of necessary organizational and legal conditions for legal entities and scientific organizations carrying out activities within its framework related to conducting experimental and experimental work based on artificial intelligence technologies, developing software products and providing services, granting privileges in legal relations arising in the process of testing and implementation into the practice of software products. Currently, the special regime for the use of artificial intelligence technologies is determined by by-laws<sup>9</sup>. In this context, it is necessary to develop a Law of the Republic of Uzbekistan "On the Special

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<sup>9</sup> The Presidential Resolution of the Republic of Uzbekistan, dated February 17, 2021, No. PP-4996, "On Measures for Creating Conditions for the Accelerated Implementation of Artificial Intelligence Technologies," and the Resolution dated August 26, 2021, No. PP-5234, "On Measures for the Implementation of the Special Regime for the Application of Artificial Intelligence Technologies," represent significant steps in Uzbekistan's national strategy to integrate AI technologies. These resolutions outline the government's commitment to developing AI technologies and the legal framework to support their use, demonstrating the nation's progressive approach towards adopting advanced technologies in various sectors, including the judicial system. 26.08.2021 г., № 07/21/5234/0826; 23.08.2022 г., № 06/22/194/0766.

Regime for the Application of Artificial Intelligence Technologies," considering the experience of foreign countries. The literature correctly emphasizes that no single jurisdiction can independently regulate and control AI. Only a combination of national and international legal tools, along with extensive and close international cooperation, including international mechanisms for compulsory legal enforcement, can ensure that AI serves humanity effectively.<sup>10</sup>.

6. It is crucial to legally establish the procedural right to choose electronic forms of communication between parties involved in a case, by allowing direct transmission of document copies in electronic (digital) form between them. This is deemed necessary to enhance the efficiency of implementing the principle of adversarial proceedings, which depends on timely disclosure of evidence, regardless of its traditional or digital form. The choice of information-technological forms of judicial communication, including the right to electronic exchange of adversarial papers, should be documented in an evidence exchange agreement, a clause in a contract, or through an oral statement recorded in court minutes.
7. Modern procedural legislation lacks comprehensive and detailed legal regulation of new phenomena related to the digital transformation of litigation. Issues such as the admissibility of digital electronic evidence and the procedures for conducting hearings via web conferences, video conferences, and artificial intelligence are not adequately regulated. Effective legal regulation requires theoretical development of a new concept of "digital" litigation and refinement of existing material and procedural laws considering the development of information and communication technologies. Procedural doctrinal research on the impact of digitization on litigation is fragmented, mostly addressing individual procedural institutions or being non-systematic and non-unified. In-depth theoretical research into the integration of electronic technologies in litigation is needed to develop scientific recommendations for improving procedural legislation and enhancing the efficiency of legal practice.
8. This problem-targeted research indicates that legislative recognition of digital recordings and documents as evidence is a prerequisite for "constitutional digital fairness and legality" in the administration of justice. Courts are already using email, digital photographs, ATM transaction logs, documents reflecting instant message histories, files saved from accounting software, electronic spreadsheets, internet browser histories, databases, computer memory content, computer backups, computer printouts, and digital video or audio files as evidence.
9. From the perspective of legal application, courts need to thoroughly study the new digital capabilities of litigation, considering both foreign and domestic legal practices, not only in real but also in virtual spaces. Beyond significant savings in production, transportation, and storage of paper materials, the best result of transitioning to digital technologies is the liberation of data from paper confines, making it readily accessible for analysis, inquiry, and searching for relevant court hearings. Digital technologies also enhance the transparency and efficiency of planning court sessions, enabling witnesses, victims, suspects, lawyers, and judges to see when and where they are needed in the process of online dispute resolution.
10. There is a serious issue with the professional training of personnel for e-justice. Despite targeted organizational and legal measures in this direction, professional digital training in the field of jurisprudence has not yet yielded positive final results. This is primarily due to the fact that in Uzbekistan, a lawyer is often strictly a humanities specialty, while digital law, and digital procedural law in particular, is already saturated with various technical terms and concepts related to the Internet. Regarding digital justice, the low information literacy of judges leads to the underuse of the existing functionalities of judicial systems and a lack of understanding of the tools that can facilitate a judge's work. In this strategic

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<sup>10</sup> "Sadovnikov D. Global Trends in the Regulation of Artificial Intelligence (AI)а (ИИ, AI)// [https://zakon.ru/blog/2021/10/08/informaciya\\_o\\_sobytiyah\\_posvyaschennyh\\_regulirovaniyu\\_iskusstvennogo\\_intellekta\\_ii\\_ai](https://zakon.ru/blog/2021/10/08/informaciya_o_sobytiyah_posvyaschennyh_regulirovaniyu_iskusstvennogo_intellekta_ii_ai)

perspective, it is necessary to develop a Concept of Digital Legal Education for the Republic of Uzbekistan, considering the objective trend of developing Internet technologies in the global virtual legal space.

11. One of the tasks in this direction is the need to develop educational literature on "Digital Law" and "Digital Procedural Law," considering the peculiarities of regulating digital material-legal relations and the established specialization of litigation. This also includes the application of artificial intelligence in state and non-state courts and their relationships with state authorities, including law enforcement agencies, as well as organizations.
12. It is our firm belief that it is necessary to develop Digital Technological Programmatic Methodological Guidelines for judges and court staff on online dispute resolution on the Internet.

Consequently, it can be concluded that the effective and rational use of Internet technology in the field of online dispute resolution will provide a strong impetus for the qualitative, efficient, and timely resolution of disputes, as well as the protection of the legal rights and interests of individuals in both natural and virtual spaces.