

## Digitalization of justice in Lithuania

### 1. Introduction

On December 2, 2020, the European Commission adopted The Communication on Digitalisation of justice in the European Union<sup>1</sup>. Its aim at the national level is to help member states strengthen the implementation of digital technologies in various national judicial institutions, whereas at the European level it aims to further improve cross-border judicial cooperation. By introducing it, Věra Jourová, Vice-President for Values and Transparency, emphasized that: “Justice systems need to keep pace with digital transformation and to respond to the expectations of citizens. As national courts are also European Union courts, we strongly support this new approach to digitalisation of justice systems. It will improve access to justice and cooperation in the EU’s area of freedom, security and justice, and the functioning of the internal market<sup>2</sup>.” Commissioner for Justice, Didier Reynders, said that “everyone working in the field of justice needs to stand up to the challenges of the 21st century. This includes the whole new world of Artificial Intelligence, which we need to explore in full respect of the fundamental rights. The recent Covid-19 crisis has been a strong reminder of the need for a rapid digitalisation of justice<sup>3</sup>”. The push of the European Commission for national justice systems to go digital as soon as possible is not unexpected. For example, in European Union 2020 Strategic Foresight Report it was recognized that it is extremely important to promote the digital transformation of public

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1 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of the Regions Digitalisation of justice in the European Union A toolbox of opportunities, COM/2020/710 final, 2020.

2 European Commission – Press release “Modernising EU justice systems: New package to speed up digitalisation of justice systems and boost training of justice professionals”, Brussels, 2 December 2020, available at: [https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip\\_20\\_2246/IP\\_20\\_2246\\_EN.pdf](https://ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_20_2246/IP_20_2246_EN.pdf) [04.07.2022].

3 Ibid.

administration institutions and justice systems throughout the European Union<sup>4</sup>, The European Ethics Charter on the use of artificial intelligence in judicial systems and their environment was adopted in Strasbourg on December 3–4, 2018, encourages the use of artificial intelligence in online dispute resolution<sup>5</sup>, the synthesis of technology and justice systems is discussed in many other documents, adopted by various European Union institutions<sup>6</sup>.

Digitalization of public services has also been one of the main objectives of Lithuanian governments already for quite a long time. At the beginning of 2020, 55.3 per cent of institutions provided services via the E-Government Gateway, 97.6 per cent – by e-mail, 75.6 per cent – provided consultations on the website, 46.4 per cent – provided information services via social networks. At the beginning of 2020, 72.9 per cent of institutions provided a possibility to download various document forms, 47.4 per cent – to return filled-in forms. 39.5 per cent of institutions provided a part of services electronically<sup>7</sup>. One of the best-known online platforms are developed for E-Health services, for Centre for Registers, e-services for State Tax Inspectorate or e-portal for legal acts. Word “GovTech” is relatively well known in Lithuania. For instance, **the GovTech Lab Lithuania is a team in public sector focused on encouraging the creation and use of innovative solutions for the government**<sup>8</sup>.

Courts are no exception. For quite a long-time steps have been taken to create and to develop ways that administration of courts and court proceedings could be organized digitally. First steps were taken even a bit earlier as in other public institutions. In EU justice scoreboard electronification in Lithuanian courts has been also noticed<sup>9</sup>.

While speaking about digitalization of court proceedings in Lithuania, such aspects are usually discussed: electronic e-services of procedural documents; recording and storage of records of court hearings; electronic random allocation

4 European Commission “The 2020 Strategic Foresight Report, Charting the course towards a more resilient Europe”, 2020, available at: [https://ec.europa.eu/info/sites/default/files/strategic\\_foresight\\_report\\_2020\\_1.pdf](https://ec.europa.eu/info/sites/default/files/strategic_foresight_report_2020_1.pdf) [04.07.2022].

5 CEPEJ European Ethical Charter on the use of artificial intelligence in judicial systems and their environment 2018.

6 For example, Council Conclusions ‘Access to justice – seizing the opportunities of digitalisation’ 2020/C 342 I/01, OJ C 342I, 2020; European Commission, Directorate-General for Justice and Consumers, Study on the use of innovative technologies in the justice field: final report, Publications Office, 2020, available at: <https://data.europa.eu/doi/10.2838/585101> [04.07.2022]; Council conclusions on shaping Europe’s digital future 2020/C 202 I/01 ST/8711/2020/INIT OJ C 202I, 16.6.2020, p. 1–12.

7 Information provided by the Department of Statistics Lithuania. Digital publication “Digital Economy and Society in Lithuania”, ISSN 2669-154X, available at: <https://tinyurl.com/bdhvc75b> [28.06.2022].

8 More information about it is available at: <https://govtechlab.lt/about/>.

9 EU Justice Scoreboard of year 2021, available at: <https://tinyurl.com/35kduj98> [28.06.2022].

of cases to judges; electronic management of information and documents in court cases; informational pre-trial investigation system and remote court hearings.

This article will explain the most important initiatives in Lithuania to introduce and promote digitalization of court proceedings (mainly in civil and administrative proceedings) in Lithuania.

## 2. Liteko – unified information system of Lithuanian courts

A very important step to develop information technologies in Lithuanian courts took place between 2004 and 2005, when the unified information system of Lithuanian courts, Liteko, was launched. The initial development stage of Liteko yielded only six modules programmed and implemented out of the thirteen planned at that time due to the lack of financial resources and time as well as various organisational problems: a) registration and accounting of cases; b) exchange of case-related information among courts; c) search of similar cases and information in the data bases of Liteko; d) templates of court documents; e) generation of statistical reports; f) publishing of procedural decisions of courts online<sup>10</sup>. On 10 May 2006, the Judicial Council approved the Liteko Development Plan<sup>11</sup> which introduced further development of additional software modules, such as, automation of the issuance of court orders and other summary proceedings, electronic accounting of the stamp duty, unified case numbering, e-service of procedural documents or automatic allocation of cases to judges. The system is also integrated with other registers or informational systems of the country and judges are able to submit and receive data through the court informational system.

In the year of 2013 important amendments to Law on Courts<sup>12</sup>, Law on Administrative Proceedings<sup>13</sup> and Code of Civil Procedure<sup>14</sup> took into effect which introduced that the electronic data related to judicial and enforcement proceedings must be managed, registered, and stored using information technologies. Also, the right of the parties to proceedings to get remote access to electronic case files and the right to submit procedural documents to courts electronically communication means was introduced and the use of electronic

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10 Nekrošius, Brazdeikis, et al. 2017, p. 35.

11 Resolution No. 13P-462 of 10 May 2006 of the Judicial Council 'On the Development Plan of the Information System of Lithuanian Courts (LITEKO)', available at: [http://www.teismai.lt/dokumentai/tarybos\\_nutarimai/20060510-462.doc](http://www.teismai.lt/dokumentai/tarybos_nutarimai/20060510-462.doc) [28.06.2022].

12 Law on Courts, Valstybės žinios, 2012, No. 153-7826.

13 Law on Administrative Proceedings, Valstybės žinios, 2012, No. 13-308.

14 Code of Civil Procedure, Valstybės žinios, 2012, No. 36-1341.

procedural documents and electronic signatures in the procedural activities of courts were authorized.

From the 1<sup>st</sup> of July 2015, the same system has been used in administrative offense cases and from the 1<sup>st</sup> of January 2020 also the procedures in some criminal cases (judicial order in criminal cases) have been managed electronically as well.

The court electronic services are accessible for customers via the portal, *e.teismas.lt*. The participants to the court proceedings may log in via the centralised state administrated platform for public electronic services (Electronic Government Gateway). This platform enables authentication via electronic banking, identity cards, and electronic signatures. While increasing accessibility to the portal, the courts issue the specific accession data for those who, for any reason, may not authenticate via the system, for instance, foreigners. If the case is initiated electronically, the participant to the proceedings pays 75% of the stamp duty.

Also, the laws state that advocates, assistant advocates, bailiffs, assistant bailiffs, notaries, state and municipal enterprises, institutions and organisations as well as insurance undertakings, court-appointed experts and insolvency administrators have the obligation to submit procedural documents by electronic means. In cases where a procedural document is served by the court by means of electronic communications, the day of service to the participant to the proceedings is the next working day after the day the procedural document has been sent.

The registered users in the system may initiate case forms and other documents directly in the portal by completing more than 100 forms that are placed in a document list with unique data and saving them in their own account or personal computer for the later submission to a court.

Important element of Liteko system is the storage of audio recording of court proceedings. The court hearings in civil cases, administrative cases, and cases of administrative offenses must be carried out with the audio recordings. In criminal cases, the record is a part of the protocol. The courts must have the modern technologies for the fixation of the court proceedings. The Supreme Court of Lithuania also stressed that the record has to be of good quality. If the record has significant disturbances, it can be a ground for the judgment to be repealed<sup>15</sup>.

Moreover, electronic management service of judicial mediation procedures is also available in the system. The electronic system Liteko has functionalities for

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15 Judgment of the Supreme Court of Lithuania in a civil case No. e3K-3-307-421/2021, December 3, 2021.

judicial mediation for secure, prompt, and convenient communication among judicial mediators and the parties to the dispute.

Enforcement procedure can also take place electronically. Parties to the dispute are able to submit applications to the bailiff and receive enforceable instruments electronically. Auctions of debtor's property are also organized only electronically. Electronic system of the bailiffs is already integrated with Liteko system. The submitted enforcement documents are distributed to the bailiffs automatically, ensuring a proportionate distribution of the enforcement documents to all bailiffs in the same area of activity and ensuring that the enforcement documents of the same debtor are submitted to the same bailiff.

It can be said that the formation and submission of documents to courts, the acquisition of the case material by electronic means, and the possibility to perform the duties concerning the payment of stamp duty, litigation costs or court-imposed fines in only a few clicks from home or office are used quite often in Lithuania. At the end of 2021<sup>16</sup>, there were 105 161 users of the system (for instance, 54 118 in year 2018) and 86% of civil, 69% of administrative cases were managed electronically.

### 3. Remote court hearings

On the 1<sup>st</sup> of March 2013, Art. 175<sup>2</sup> of the Code of Civil Procedure came into force, which legitimised the use of information and communication technologies (videoconferences, teleconferencing, etc.) during court hearings. Similar rules were introduced also in other procedural legal acts. These legal norms legitimised the use technologies in questioning witnesses, experts, persons involved in the proceedings and other parties to the proceedings, as well as during site inspections and collection of evidence<sup>17</sup>. Participants to the proceedings could attend the court hearing via video conferences, also courts were equipped with 18 stationary video conferencing equipment and 5 mobile sets, and, for instance, all imprisonment institutions in Lithuania were equipped with special video conferencing sets. Actually, firstly remote court hearings were not applied quite often. Usually, it was applied in cases when one or a few participants were abroad or imprisoned, as well as when there was a need to protect the victim of the crime and/or the juvenile witness.

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16 Statistics on courts available at the National Courts Administration of Lithuania report 'The courts of Lithuania: Results of the activity 2021' available at: <https://www.teismai.lt/data/public/uploads/2022/03/teismai2022-taisytas.pdf> [28.06.2022].

17 Brazdeikis, et al. 2016, p. 184.

Covid-19 pandemic has become the major reason to promote remote court hearings and to apply legal rules more flexible. It was decided for remote court hearings not to establish a special platform, but rather to use different well-known platforms. Nowadays Zoom platform is used, as all courts got licences for this technology. It is also possible to organize hybrid court hearings, when the judge and some participants of the proceedings appear in a courtroom and other participants take part in the hearing remotely.

It could be acknowledged that the pandemic and the adaptation of courts to the changing situation transformed the understanding of such procedural principles as orality or publicity. It was comprehended that oral court hearing could take place remotely. The most recent recommendations<sup>18</sup> for remote court proceedings, adopted by the Judicial Council of Lithuania, set the rules for court hearings generally and Covid-19 pandemic situation is not mentioned, so these recommendations can be applied generally.

They provide useful, practical advice to courts and participants to judicial proceedings on how to participate in remote court hearings and how principals of publicity and confidentiality must be safeguarded in such proceedings.

It can be stressed that Covid-19 pandemic has not stopped civil proceedings in Lithuanian courts. Because of quite high level of digitalization, the courts have transformed their attitude towards remote court hearings quite quickly and it has led to the emergence of the “New Normal” for courts and participants to proceedings. The statistics<sup>19</sup> can also reaffirm that. In the year of 2021, 39 517 remote court hearing have been organized, as in the year of 2020–14 838 and in the year of 2019 only 2612 court hearing were remote and only stationary video conferencing equipment was used.

Court practice also reaffirms that if participants to the proceedings have agreed to a remote court hearing and there are all possibilities to connect to remote court hearings, the parties have the opportunities to speak out their arguments, there are no formal procedural grounds to challenge the judgment<sup>20</sup>. It can be also noted that till now there are no really relevant decisions of the Supreme Court of Lithuania on remote court proceedings.

But, for instance, The Supreme Administrative Court of Lithuania in a case stated that according to Article 13 (7) of the Law on Administrative Proceedings of the Republic of Lithuania, the participation of process participants in

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18 Recommendations of the Judicial Council regarding the organization of remote court hearings, August 27, 2021, available at: <https://tinyurl.com/2jy3x26e> [28.06.2022].

19 More statistics on courts available at the National Courts Administration of Lithuania report ‘The courts of Lithuania: Results of the activity 2021’ available at: <https://www.teismai.lt/data/public/uploads/2022/03/teismai2022-taisytas.pdf> [28.06.2022].

20 For instance, judgment of the Lithuanian Court of Appeal in a civil case No. 2A-167-450/2022, March 29, 2022.

court hearings can be ensured using alternative methods – using information and electronic communication technologies (via video conferences, teleconferences, etc.). In this case, the court of first instance decided to appoint the case to be examined in the order of oral proceedings, ensuring the applicant's participation in the court session via video conference. Thus, according to the court, the applicant was guaranteed the opportunity to participate in the court session. The applicant refused this opportunity, without indicating any objective reasons that would allow the court to conclude that a video conference could not be organized in this case or that the applicant's right to be heard in this way would not be properly ensured<sup>21</sup>. To sum up, in this case the Supreme Administrative Court of Lithuania noted that the applicant must properly motivate his/her objection to remote hearing of the case.

It can be agreed that a final implication for the justice system arising from the Covid-19 experience is that there will be demands for a greater and accelerated investment in digital technology within courts<sup>22</sup>. We believe that Lithuania is no exception for this.

Now remote court hearings are also perceived as the way to level the workload of judges in cities and smaller towns. It is hoped that if participants to civil proceedings agree to remote proceedings, it will be possible to apply different jurisdiction rules and refer civil dispute to other courts.

#### 4. Possibilities of artificial intelligence

Artificial intelligence has a great potential – it can improve access to justice, reduce both financial costs and duration of judicial proceedings, as well as the backlog of judges, but on the other hand, it creates new risks, associated with biases and the so-called black box problem. In the European Council Conclusions “Access to Justice – Seizing the Opportunities of Digitalisation”, adopted in 2020, it is noted that artificial intelligence systems in the justice sector may in the future be capable of performing increasingly complex tasks – within the legal framework of a Member State – such as analysing, structuring and preparing information on the subject matter of cases, automatically transcribing records of oral hearings, offering machine translation, supporting the analysis and evaluation of legal documents and court/tribunal judgments, estimating the chances of success of a lawsuit, automatically anonymising case law and pro-

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21 Judgment of the Supreme Administrative Court of Lithuania in an administrative case No. A-1281-624/2020, February 19, 2020.

22 Bamford 2021, p. 13.

viding information via legal chatbots<sup>23</sup>. Given that the use of artificial intelligence tools has the potential to improve the functioning of justice systems, but also has a potential to put human rights and freedoms in danger, it is of vital importance to find a balance between sustainable technological development and anticipating legal risks.

According to European Commission study on the use of innovative technologies in the justice field, judicial authorities are increasingly adopting artificial intelligence-based applications. Of particular interest in the field of justice are the anonymisation of court decisions, speech-to-text conversion and transcription, machine translation, chatbots supporting access to justice and robot process automation<sup>24</sup>. However, it should be noted that in a European Commission's study on the use of innovative technologies in the justice field it is noted that the use of technology, including artificial intelligence, varies between Member States, but overall, it is not widespread<sup>25</sup>.

For example, artificial intelligence in Baltic and Nordic countries may be seen as a part of pseudo anonymization programs and the technology may also be used as search algorithms and sentence databases. Aside from this, however, there is not much that suggest a further automatization of the processes in the individual courts<sup>26</sup>. As mentioned in the second part of this article, in Lithuania, a case handling portal LITEKO was introduced in 2004. The main purpose of the system was to computerize processing of documents and files in courts; to automate control of procedural terms; to automate the calculation of workload and the allocation of cases and the process of publicizing of court information<sup>27</sup>. However, more advanced artificial intelligence technology is not used in the courts of Lithuania. In EU justice scoreboard it is indicated that Lithuania uses none of artificial intelligence applications in core activities in courts as per 2021<sup>28</sup>. Up till now there are no discussions to try to create advanced artificial intelligence for Lithuanian justice system.

One of the topics currently widely discussed in the jurisprudence is the use of artificial intelligence in judicial proceedings not only to assist in making decisions (leaving the final decision to the human-being) but also as a substitute for

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23 Council Conclusions 'Access to justice – seizing the opportunities of digitalisation' 2020/C 342 I/01, OJ C 342I, 2020, p. 1–7.

24 European Commission, Directorate-General for Justice and Consumers, Study on the use of innovative technologies in the justice field: final report, Publications Office, 2020, available at: <https://data.europa.eu/doi/10.2838/585101> [28.06.2022].

25 Ibid.

26 Digitalization at the courts, Nordic Council of Ministers 2022, available at: <http://dx.doi.org/10.6027/temanord2022-518> [28.6.2022].

27 Ibid.

28 EU Justice Scoreboard of year 2022, available at: [https://ec.europa.eu/info/sites/default/files/eu\\_justice\\_scoreboard\\_2022.pdf](https://ec.europa.eu/info/sites/default/files/eu_justice_scoreboard_2022.pdf) [28.06.2022].



the final decision<sup>29</sup>. The question was fostered after 2019, when Estonia announced that a robot-judge project is currently being developed to resolve small – meaning up to 7,000 Euros – civil disputes arising from contracts<sup>30</sup>. Also, the European Ethical Charter of the use of AI in judicial systems and their environment encourages the use of artificial intelligence in online dispute resolution<sup>31</sup>. However, the position of various institutions of the European Union seems to be that the final decision should always be a discretion of human of flesh and blood. For example, on October 2020, European Parliament adopted a resolution on a Framework of Ethical Aspects of Artificial Intelligence, Robotics and Related Technologies which states that technologies that can be used to make automated decisions and thus change the decisions taken by public authorities should be treated with great caution, especially in the areas of justice. It is also noted that Member States should use such technologies only if there is detailed evidence of their reliability and if a meaningful human review is possible<sup>32</sup>. So, the European Parliament encourages careful use of the opportunities offered by technology and gives priority to fundamental human freedoms.

This idea – of having a meaningful human review possible – is supported in the European Council conclusions, dated 8 October 2020, called Access to justice – seizing the opportunities of digitalisation where it was said that the use of artificial intelligence tools must not interfere with the decision-making power of judges or judicial independence. A court decision must always be made by a human being and cannot be delegated to an artificial intelligence tool<sup>33</sup> and by the European Commission that in its communication Digitalisation of justice in the European Union – A toolbox of opportunities, dated 2 December 2020, noted that the final decision-making must remain a human-driven activity and decision. Only a judge can guarantee genuine respect for fundamental rights, balance conflicting interests and reflect the constant changes in society in the analysis of a case. At the same time, it is important that judgments are delivered by judges who fully understand the artificial intelligence applications and all information taken into account therein that they might use in their work, so that they can explain

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29 For example, Susskind 2019; Strikaitė-Latušinskaja 2022, p. 8–24.

30 Niiler, Eric: ‘Can AI Be a Fair Judge in Court? Estonia Thinks So’ (WIRED, March 24, 2019), available at: <https://www.wired.com/story/can-ai-be-fair-judge-court-estonia-thinks-so/> [28.06.2022].

31 CEPEJ European Ethical Charter on the use of artificial intelligence in judicial systems and their environment 2018.

32 European Parliament resolution of 20 October 2020 with recommendations to the Commission on a framework of ethical aspects of artificial intelligence, robotics and related technologies (2020/2012(INL)), Brussels.

33 Council Conclusions ‘Access to justice – seizing the opportunities of digitalisation’ 2020/C 342 I/01, OJ C 342I, 2020, p. 1–7.

their decisions<sup>34</sup>. To conclude, even though these documents are sources of soft law, we can see still sense what is the European approach – the use of advanced technology to make final decisions, at least at this stage of technological development, is not encouraged.

Talking about future perspectives, it should be noted that the European approach presupposes that the final decision will remain a human judge discretion. Considering that a sufficient level of digitalisation is a prerequisite for the use of more advanced artificial intelligence applications and that Lithuania is one of the leading Member States of digitalisation of courts, we are likely to see artificial intelligence tools being applied in the Lithuanian courts, however, bearing in mind the above-discussed European approach, it can be concluded that no fully automatized processes which could substitute a regular physical judge with a computer in Lithuania will be applied. At least not in the near future.

## 5. Conclusions

Launching a case handling portal LITEKO in 2004 was a milestone in Lithuanian digitisation and digitalization processes. Developing over the years, Liteko portal is now used in civil cases, administrative cases, cases of administrative offences and criminal cases and allow *inter alia*, to automatically allocate cases, to exchange data between judges and parties, to follow the case status, to save audio recordings of court proceedings, to use forms templates, to perform the duties concerning the payment of stamp duty. In addition, both judicial mediation and case enforcement procedure are integrated in the system. Statistics show that Liteko portal initiative was successful – people prefer to use it for most civil and administrative cases.

Covid-19 pandemic has led to an increase in the use of communication by digital means worldwide. In Lithuania, it was decided to use commercial options, such as Zoom platform, rather than to improve an existing one or to establish a new one. Remote court hearings are believed to be applied more widely in Lithuania – current situation shows that all courts have licenses to use the Zoom platform, hybrid court hearings are being organised as well. It is believed that if parties agree to having remote court hearings, it should be possible to have them in both civil and administrative courts even after the Covid-19 pandemic.

Even though the use of artificial intelligence in courts is gaining more and more public attention, the use of it in practice is relatively low worldwide and

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34 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of the Regions Digitalisation of justice in the European Union A toolbox of opportunities, COM/2020/710 final, 2020.

Lithuania is no exception. Liteko portal uses automation to *inter alia* allocate cases to judges, also there are programs in place to pseudo anonymize judgments, however no artificial intelligence applications are used in Lithuanian courts. Taking into account the advanced Liteko system functioning in Lithuania, as well as Lithuanian courts being sufficiently digitalised, it is believed that artificial intelligence tools will be applied in the near future and bearing in mind various soft law sources of different European Union institutions, the form of mentioned technology will ensure a meaningful human review.

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