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Master`s Thesis

Potential and Challenges of Online Dispute Resolution for Courts
Internetinio ginčų sprendimo potencialas ir iššūkiai teismams

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Vilnius

2023

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INTRODUCTION

In today's information society, technologies are rapidly changing traditional approaches to business, communication, education, and other areas of life. The sphere of justice is no exception. Online dispute resolution opens up new opportunities for effective, quick and affordable resolution of legal conflicts. However, along with the potential, this approach carries a number of challenges that require in-depth analysis and understanding.

Relevance of research. The problem of the effectiveness of the judicial system has always been relevant, but with the development of information technologies, its relevance is only increasing. Online dispute resolution can become an alternative to traditional court proceedings, which will reduce the burden on the courts, save time and resources of the parties to the conflict. But for this it is necessary to study the main aspects, problems and prospects of this direction.

The aim of the study. Consists in the study of the theoretical foundations of online dispute resolution, the analysis of judicial practice in this area, as well as the determination of modern trends and prospects for their development.

Objectives of the study:

1. To study the theoretical foundations of online dispute resolution.
2. Analyze the legal framework in the field of online dispute resolution.
3. Explore methods and technologies used in online dispute resolution.
4. Review the practical aspect of case law in the context of online dispute resolution.
5. To study modern trends, innovations and international experience in this field.
6. Develop recommendations for improving the online dispute resolution system based on the analysis.

Object of study: online dispute resolution processes and mechanisms.

Subject of study: features, problems and prospects of online dispute resolution in the context of the judicial system.

Research methods. The work uses complex methods of scientific knowledge, which include logical, comparative legal, statistical methods, as well as methods of analysis and synthesis. Thanks to this, a deep analysis and a systematic approach to the study of the chosen topic is provided.

The theoretical significance of the study. The results of the work contribute to the expansion of academic knowledge in the field of online dispute resolution. The research can serve as a basis for further scientific developments, as well as for the formation of new theoretical concepts and approaches in this field.

Practical significance of the research. Studying the features, problems and prospects of online dispute resolution allows for the development of specific recommendations and suggestions for improving the practice of their application in the judicial system. The results of the study can be used by authorities, judicial institutions, as well as specialists in the field of law to optimize the processes of dispute resolution in the online format.

Structure of work. The work consists of an introduction, three chapters reflecting the key aspects of the research, and conclusions. Each chapter is divided into subsections for detailed consideration of individual issues of the topic. The content of the work reflects a consistent transition from theoretical analysis to practical recommendations, which contributes to a deep and systematic study of the problems of online dispute resolution.

CHAPTER 1

THEORETICAL ASPECTS OF ONLINE DISPUTE RESOLUTION

1.1. Concept and essence of online dispute resolution

In foreign sources, a number of terms are used to denote the use of ICT in the field of justice, such as: cyberjustice, e-justice, digital justice and ODR. However, the definition of these concepts is not yet unambiguous in international documents, national legislation or in scientific doctrines. This is due to the fact that this field of knowledge is interdisciplinary and is at the stage of formation, although it is actively developing.

In 2017, the Working Group on Cyber-Justice and the Use of Artificial Intelligence in Judicial Systems (CEPEJ-GT-CYBERJUST), which operates under the auspices of the European Commission for Effective Justice (CEPEJ), conducted a study aimed at analyzing and recommending ICT in civil court procedures. In this study, the commission used the concept of "cyberjustice", justifying its choice by the desire to study a wider range of possibilities of ICT in the field of justice. At the same time, they emphasized the deliberate refusal to use the term "electronic justice" (e-justice), which implies the use of ICT as a tool for ensuring justice in the digital age [31, c.40].

In this study, the concept of cyber-justice has a broad interpretation, including all situations where ICT is used to resolve conflicts, regardless of whether it occurs in judicial structures or outside them. As a result, CEPEJ identified four key aspects of the use of ICT in the field of justice:

1. Ensuring access to justice.
2. Communications between judicial authorities and legal professionals, including executive authorities, services, courts, lawyers and other parties.
3. Administration of the judicial process.
4. Direct support in the work of the judge and registrar.

In particular, CEPEJ considers the use of ICT as a means of improving access to justice, which includes access to regulations (through information systems) as well as access to dispute resolution mechanisms (for example, online platforms for free legal aid or referring cases to a court or mediator).

This broad approach to understanding the accessibility of justice through ICT is also confirmed in academic sources. Here, online tools to improve accessibility are not limited to

ODR mechanisms, but also include websites with laws, case law, online legal advice and platforms for creating documents submitted to court [22, c.327].

One of the famous initiatives in the field of online justice is the French platform DemanderJustice.com. This website provides an opportunity for individuals to create and submit claims electronically in non-lawyer cases.

However, although CEPEJ attempts to clearly distinguish the concept of cyber-justice from e-justice, the analysis of scholarly discourse shows that the terms e-justice, digital justice and cyber-justice are often used synonymously in academic works. This indicates that in foreign literature these concepts are perceived as interconnected and very close in content, and both characterize different aspects of the use of ICT in the judicial resolution of conflicts or during the use of alternative methods of dispute resolution (ADR) [11, c.97].

It is important to consider the different categories of ICT and their role in the civil process. Researchers classify ICT according to three levels of influence on the judicial process:

- a) Basic level technologies are supporting tools aimed at informing and supporting persons in the field of civil justice and providing them with advice;
- b) Mid-level technologies are substitute tools that can perform functions previously performed exclusively by humans;
- c) Technologies of an advanced level are innovative systems that can radically change the usual approaches to the work of judges and implement the latest methods of administering justice, in particular thanks to predictive analytics, which can redefine the role of the judge [11].

It is worth noting that the term "cyber justice" and its synonyms usually mean technologies of the first two levels. However, third-level technologies, which include the use of artificial intelligence to resolve disputes, are considered a separate category. These new technologies represent a revolutionary approach to the use of ICT in civil justice and provoke debate about the legality of the use of predictive analytics, machine learning, and the potential replacement of judges by artificial intelligence systems in the judicial decision-making process.

There is some disagreement in foreign doctrine regarding the standard terminological approach to issues related to the use of ICT in civil litigation. We believe that, given that the term "e-justice" is already in use at the national level, it is this term that is best suited to describe the various aspects of the use of ICT in our civil justice system. However, our national approach needs to be adjusted in order to bring it into line with global trends.

So, by "electronic justice" we mean the following ICT aspects of civil justice:

- a) Electronic presentation of documents in court;
- b) Electronic methods of distributing cases between judges;

c) Electronic case management systems, which include electronic notifications, document exchange, as well as opportunities for audio and video recording of meetings and participation in the court process through video communication;

d) Electronic means of proof and systems of electronic access to evidence;

e) Electronic databases of court decisions;

f) Online dispute resolution systems;

g) Application of artificial intelligence technologies in judicial proceedings, including predictive analytics, machine learning and automated decision-making [16, c.72].

As part of our analysis, we focus on a specific component of e-justice that is key to access to justice in civil cases - online dispute resolution (ODR). It is worth noting that in addition to this term in scientific sources there are other definitions for this direction, such as: electronic dispute resolution (eDR), online electronic dispute resolution (eODR), internet dispute resolution (iDR), online alternative method of dispute resolution (OADR) and others. However, the term ODR is the most common and accepted in the scientific community, so we will use it.

The term ODR appeared in world practice in the 90s of the 20th century, when it denoted methods of alternative dispute resolution (ADR) that used Internet technologies, in other words, it was ADR in an online format. The main feature was not to create new ADR methods, but to transfer traditional approaches such as negotiation, mediation and arbitration to a virtual environment. A characteristic feature of ODR is the inclusion of a "fourth party" in the resolution of the dispute - technologies. However, over time, online tools began to be used in official proceedings, which led to the expansion of the concept of ODR. It now refers to all methods of resolving disputes using Internet technologies without the need for the parties to be present in person, including arbitration, litigation, etc. In this context, V. Tan believes that a true ODR should allow the parties to fully resolve their dispute online, starting from the filing of the claim and ending with its resolution. Hence, ODR differs from systems of electronic submission of documents to the court, online case management, information platforms and other tools for online storage or retrieval of documents [52, c.101].

Considering foreign literature, there are two key approaches to defining the concept of ODR: a narrow and a more general understanding. The narrow understanding is limited only to the concept of online ADR, while the general includes all types of online dispute resolution, including online courts. It is interesting that in European literature and official documents of the Council of Europe and the EU, as a rule, a narrow understanding of ODR is accepted. On the contrary, in countries with the Anglo-Saxon legal system, this concept has a broader understanding.

This difference may be due to the fact that the first online courts were established in common law countries, which necessitated a broader understanding of ODR. Personally, I believe that the general approach to understanding ODR is more balanced, as it reflects modern developments in civil justice in many countries. It also highlights current trends towards a combination of different dispute resolution methods, taking into account the possibility of using consensual online ADR methods in addition to court decisions [1].

The ODR system is diverse in its structure and includes numerous methods of dispute resolution, such as online negotiations, mediation, conciliation, facilitation, arbitration and courts. In academic sources, a distinction is usually made between private and public ODR systems, depending on the platform on which disputes are handled. However, given our focus and the above discussions, it seems more appropriate to us to divide the types of ODR into two categories based on their interaction with traditional litigation: online ADR, which includes out-of-court dispute resolution through various platforms, and online litigation.

In the initial stages of the development of ODR, the main emphasis was placed on online ADR, but in modern times online litigation is also gaining importance, which indicates the spread of access to justice. Initial efforts to introduce online courts were made in such countries as Canada, China, the United States and Great Britain. Modern researchers recommend distinguishing between first and second generation courts.

The first generation of online courts focused on simple cases, using an electronic written communication format with basic data processing and algorithmic management. Basically, it was a transition to electronic justice using digital means. In particular, Australia has had an eCourtroom system since 2001, which allowed parties to send documents and exchange information online. In Great Britain, the "Money Claim Online" service was launched, which allowed online filing of lawsuits for the collection of monetary debts [3, c.721].

However, the classification of the eCourtroom system as a first-generation online court can be disputed, as it is, in fact, more of an electronic document management and case management system than a true ODR system. It was typical for online courts of the first generation to transfer all communication to a digital format, with or without the possibility of holding online sessions, but based on electronic communication.

Today, we are witnessing the emergence of second-generation online courts, which do not just adapt the traditional court process to the online environment, but create innovative, hybrid dispute resolution systems. The academic literature emphasizes that, in contrast to the modernization of traditional court procedures with the help of technology, these courts introduce new procedures that are optimized by the advantages of digital technologies. They use innovative tools and recruit new members to perform specific tasks.

One of the pioneering initiatives in this direction is the Online Civil Dispute Resolution Tribunal (CRT) in the province of British Columbia in Canada. Launched in July 2016, the CRT has jurisdiction over a range of cases, including casualty damages, most minor claims of up to CAD 5,000, and matters arising between co-owners of apartment complexes. The main purpose of the procedure in the CRT is to facilitate the peaceful resolution of the dispute by the parties at the early stages. If this is not achieved, the court enters to consider the case. The review procedure in the CRT has four main stages [2]:

- 1) entering information about the dispute through the Solution Explorer platform;
- 2) online negotiations;
- 3) online facilitation;
- 4) judicial investigation.

When starting work with the online tribunal, the first step is to contact the Solution Explorer information platform. This free platform is meant to provide the user with detailed information about his dispute. The user fills out a questionnaire where he specifies the details of his case. Based on this information, the platform provides relevant regulations, clarifications on the legal situation, examples of required documents and recommendations on next steps to protect rights.

If the user decides to initiate a lawsuit, the next step is to fill out electronic forms that provide basic information about the dispute, participants, the plaintiff's position, and the main evidence. After a lawsuit is filed, information is sent to the defendant, and both parties have a chance to negotiate online to try to resolve the dispute on their own.

In the case of an unsuccessful settlement through negotiations, the third stage follows - facilitation. It consists in helping to resolve the dispute by an independent third party, often a professional mediator. The process is carried out confidentially using modern ICT technologies. This third party can act as both a mediator and a conciliator, helping the parties analyze the situation and suggesting solutions. This stage has two purposes: to try to resolve the dispute amicably or to prepare both parties for a trial. According to CRT information, approximately 70% of disputes are resolved at this stage [8, c.55].

If the parties have reached an agreement and resolved the dispute, the facilitator may, at their request, apply to a judge to make such a decision legally binding. In the event that the dispute remains unresolved, the facilitator helps in the preparation for the next stage - the trial, actively using case management techniques.

During the trial, communication between the parties takes place asynchronously through online platforms, e-mails, etc. The judge examines the written evidence, examines the

arguments and makes a decision that has legal force. If oral hearings are necessary, especially if there are doubts about the evidence, they can be held by telephone or video conference.

The trial process guarantees the parties compliance with all procedural guarantees that exist in traditional courts. The average time for consideration of a case in such a tribunal is 60-90 days, while court costs are equal to about 200 Canadian dollars. These costs can be spread over different stages and reduced if the case was resolved at earlier stages.

Judges in such a tribunal are lawyers who specialize in specific categories of disputes. Although the tribunal's decision may be appealed, the grounds for appeal are usually limited [15].

Similar pilot projects on CRT have been implemented in some states of Australia, in particular, in New South Wales and Victoria.

Great Britain put forward an interesting initiative for the introduction of online judicial proceedings aimed at creating Her Majesty's Online Court. This concept was later reformed by a Supreme Court judge, Lord Briggs, into The Online Solutions Court. This court had jurisdiction to hear civil cases where the value of the claim started at £10,000, with a further increase of this limit to £25,000 [13].

The procedure in this court involves three stages:

1. **Intelligence stage:** the parties enter data about their dispute into the online system, receiving information about the essence of the dispute, their rights and obligations, advantages and weaknesses of their position, possible ways of resolving the dispute (judicial and out-of-court) and a form for filing a claim.

2. **Case management and online ADR:** at this stage, conciliation is offered, which is conducted by a special officer in the case (case officer) online or by phone. Mediation and preliminary neutral evaluation techniques can also be used.

3. **Resolution of the dispute:** the dispute may be resolved during online hearings using video or telephone communications, or based on written evidence without a face-to-face hearing. The adopted decision is binding and subject to appeal under certain conditions.

O. Rabinovych-Einy and E. Ketsch claim that the introduction of modern technologies into judicial systems can significantly improve citizens' access to justice in ways that were previously unavailable. They point to three key technological innovations that contribute to this [32, c.30]:

1. Increasing the efficiency of courts.
2. Improving the comfort of handling cases and the ability to handle more cases in less time.

3. Introduction of new opportunities for justice, which include: 1) reliability and stability; 2) standard options that equalize the capabilities of all participants; 3) choice of language for the process; 4) data analysis with further training; 5) improvement of the structure of procedural actions.

These changes, in our opinion, indicate a rethinking of the role and structure of the court in civil cases. They also reflect changes in perceptions of international standards of access to justice. Modern online courts work according to the following model:

1. The goal is to avoid a dispute: this is reflected in the information stage.
2. Aim to contain the dispute: this stage focuses on encouraging the parties to negotiate and seek consensus, with the possible involvement of a third neutral party, for example, for mediation.
3. Aim to resolve the dispute: this stage includes competitive litigation [1].

In such systems, the main emphasis is on the first two stages. Considering this, the analysis and use of data, in particular big data, which is collected in the ODR process, is of particular importance. This data can be used not only to resolve current disputes, but also to prevent future conflicts.

For example, eBay, analyzing information from disputes that arose between users, established the main causes of these conflicts and optimized its platform accordingly. This has helped make eBay's dispute resolution process more efficient. Similarly, the study of data from a large number of cases heard in the online court can contribute to the improvement of review procedures and improve the efficiency of all stages of dispute resolution.

Online ADR is increasingly integrated into formal justice systems, becoming an integral part of these systems. This reflects the mixing of formal and informal methods of dispute resolution. As a result, a new approach to the architecture of the civil dispute resolution system is being formed, which is based on several key principles:

1. The system emphasizes consensus, which facilitates the settlement of the dispute at the initial stages, as mediation, negotiation and other peaceful methods are its internal elements.
2. The basis of the system is the interests and comfort of users, parties to the conflict. Some platforms even allow you to leave reviews, which are later used to optimize them.
3. The implementation of online courts contributes to increasing the efficiency of the judicial system and allows saving state resources due to automation.
4. This approach is more economical for the parties: they pay less court fees and can often defend their rights without a lawyer, as the system is simple and intuitive.

5. The system promotes equal access to justice, as its simplicity and algorithmic nature can help reduce the imbalance between the parties, associated, for example, with the difference in financial capabilities or experience of going to court [2].

Although online courts offer many advantages, there are certain difficulties that accompany their implementation. Including:

1. The need to guarantee the safety and stability of the system to avoid interference by outsiders.
2. Large capital expenditures of the state for the development and maintenance of the system.
3. The need for a high level of restricted access to system administration to reduce the possibility of external interference.
4. Ensuring confidentiality and protection of personal data of users.
5. The need for confidence in the execution of decisions made by an online court.

The transition to online dispute resolution should also be considered as a two-way process. On the one hand, this can contribute to easier access to justice, but on the other hand, it can become a barrier for those who do not have access to the Internet. As emphasized in the Opinion No. (2011)14 of the Advisory Council of European Judges, not all citizens have access to ICT, so traditional methods of access to justice should still be in favor. Special attention should be paid to ensuring the rights of vulnerable population groups [13].

The creation of online court systems such as the CRT provides opportunities for assistance to those who face difficulties in filing documents electronically. For those who do not have access to the Internet, alternative means of submission such as phone calls or paper forms are offered.

In the context of the transition to online justice, it is very important to observe the guarantees of fair justice. The Parliamentary Assembly of the Council of Europe emphasizes the importance of compliance with the standards established by the ECHR, in particular, the rights to a fair trial (Article 6 of the ECHR) and to effective legal protection (Article 13 of the ECHR) in conditions of active use of ICT [14].

The Advisory Council of European Judges in its Opinion No. (2011)14 emphasizes that ICT should serve to optimize the judicial process, improve accessibility to the court and strengthen the guarantees of Art. 6 of the ECHR. This includes safeguards such as the independence and impartiality of judges, the fairness of the process and its effectiveness.

At the same time, it is important that judges have a full understanding of the advantages and possible disadvantages of using ICT. They must be ready to identify and eliminate risks that may threaten the rights of participants in the legal process. ICT should not limit the

procedural rights of the parties, nor should it interfere with the independent and impartial application of the law by judges.

It is especially important that the use of ICT does not violate basic procedural guarantees: the right to an adversarial hearing before a live judge, the possibility of presenting original evidence, questioning witnesses and experts, and presenting documents that the party considers important. ICT should not bypass mandatory legal formalities.

Observance of these principles and guarantees in the conditions of online court proceedings is also confirmed in scientific sources.

Undeniably, when considering issues of online proceedings, it is necessary to take into account the requirements of the ECHR regarding a fair trial, in particular, paragraph 1 of Art. 6 of the ECHR. The main aspect is the issue of online oral proceedings, which is often absent in such courts. However, the ECtHR in its decisions indicates that the right to an oral hearing is not unconditional. The absence of an oral hearing in civil proceedings does not necessarily indicate a violation of the ECHR, as there are situations when such a hearing may be inappropriate given the specifics of the case, the need for efficiency, and other factors [13, 14].

Online courts typically deal with less complex cases that might otherwise be resolved through a simplified procedure that may also not involve an oral hearing. Therefore, if the parties have the opportunity to interact with the court in writing and have the right to ask for an oral hearing with the help of ICT, when they consider it appropriate, this approach does not conflict with the requirements of Article 1. 6 of the ECHR.

It is impossible not to agree that our judicial systems are currently going through a phase of intense changes, heading towards the creation of new judicial mechanisms. These mechanisms must become less conflictual, but more adaptive, dynamic, accessible, transparent, efficient and, hopefully, balanced. The main problem in the implementation of online judicial proceedings is its legitimacy. Some countries fear that too much access to e-courts may lead to the trivialization of the process of going to court, causing the devaluation of justice resources and its equality with various online services.

The main question that arises in the debate between supporters and opponents of online dispute resolution (ODR) is how to convince people of the benefits of public justice that protects their rights, regardless of the format of proceedings - electronic or traditional. According to the Advisory Council of European Judges, the introduction of technology into the judicial system should not undermine its humane nature and symbolic value. If justice is perceived only as a technical process, its value may be diminished. It is important to remember that justice serves first of all people and the regulation of their conflicts (clause 6) [12].

Recently, in scientific works, the question of potential assistance to judges from artificial intelligence or even the possibility of replacing judges with artificial intelligence in solving court issues is increasingly being raised. The first steps in the application of artificial intelligence in the judicial process have already been taken. For example, in Mexico, the Mexican Expertus system is used to advise judges on pension issues. A separate direction in this field is the so-called predictive analytics, which allows computers to anticipate a possible court decision based on available data. As part of one of his studies, N. Aletras developed a program that analyzes the practice of the ECtHR and tries to predict the decisions of new cases. According to the results of this study, the program predicted the decision of the ECtHR with an accuracy of 79%.

The development of the possibilities of artificial intelligence in the field of law led to the introduction of the concept of "artificial legal intelligence" (Artificial Legal Intelligence). This term refers to systems capable of providing legal advice and making legally sound conclusions. A simple model of the operation of such a system is based on the analysis of the data entered by the user, the setting of specific legal questions and the subsequent application of the relevant laws to the identified facts of the situation. This enables the system to formulate conditional or final conclusions. Additionally, thanks to machine learning, such systems can adapt to new data and legal realities. However, for the effectiveness of such intelligence, detailed development of algorithms is required, which would carry out analysis, forecasting and calculate probabilities so that the received information is relevant and useful [24, c.84].

The possibility of replacing judges with artificial intelligence may indicate the birth of a new, third-generation online court, in which not only the consideration of the case is automated, but also the decision-making itself. The main question that arises in this context concerns the role of man in such a process. Some scientists emphasize the importance of maintaining the ability to appeal decisions made automatically and their subsequent review by a person.

It is important to study the European Ethical Charter on the use of artificial intelligence in judicial systems. The charter emphasizes that the use of AI in the judicial system should improve the predictability and consistency of justice. The charter identifies five key principles for the use of AI in courts:

1. Respect for basic human rights.
2. Inadmissibility of discrimination.
3. Quality and safety assurance.
4. Openness, objectivity and fairness.
5. Control at the user level.

Particularly important is the last principle, which suggests that user autonomy should increase, not decrease, through the use of AI. Lawyers must be able to study court decisions and the data on which they were based. It is also important that users understand how conclusions are made with AI, have access to legal advice and the court, and are informed of any AI intervention in their legal process, with the possibility to object.

We share the opinion of researchers who argue that supporters of the idea of replacing judges with artificial intelligence do not always consider the broader context of the role of judges in society. Judges perform not only the functions of considering cases, but also an important role in strengthening and developing the principle of the rule of law. The main issue here is the question of the legitimacy of decisions made by artificial intelligence. Traditionally, the judge is responsible for the decisions he makes, but when the decision is made by AI, it is unclear who should be responsible for it and whether such a decision will be acceptable to the participants in the process and society as a whole.

T. Sordi points out that without due attention to the concept of "justice" there is a danger of preferentially focusing on economic benefit and the speed of the process, particularly in the lower courts. In the context of ODR systems, focusing on "quick and cheap" can lead to automatic decisions that may appear inhuman and unfair [43, c.1113].

Noting the peculiarities of legal language, it can be emphasized that its deep context and abstract concepts become a big challenge for its coding for artificial intelligence. A real judge, when deciding cases, uses discretion to interpret abstract concepts, acting on the basis of his own conscience and justice, even in situations where the legal norms are not clear. It can surpass the capabilities of artificial intelligence.

Algorithms, in particular, may be unable to change legal positions, create precedents, or resolve new types of disputes without prior information. Also, they may not be able to ignore individual legislative norms, if these norms violate constitutional rights or international standards, and disregard generally accepted legal principles. Another challenge is the imperfection of the legislative process and the ever-changing legislation, which can complicate the integration of AI.

Considering the above, it can be assumed that artificial intelligence should be considered as a support tool for judges, and not as their absolute alternative. In the near future, AI can effectively handle simpler cases where legislative clarity is key.

Summing up, we can say that in today's world, one of the key trends in the development of the civil process is the introduction of ODR, including online ADR and digital court platforms. Such courts combine the elements of formal and informal justice, indicating the

emergence of a new era in the consideration of civil cases and transforming the generally accepted concepts of access to justice.

Online courts have a number of advantages: they are user-oriented, offer greater efficiency through automated processes, save time and resources, reduce court costs and simplify the process for self-representatives. This is especially valuable for guaranteeing equal access to justice, as a technological approach can smooth out some procedural advantages of the parties.

But perhaps the most important feature is that such digital systems can offer not just access to the courts, but conflict resolution options that differ significantly from traditional ones. Integrating online ADR in the early stages of a case allows the parties to reach a consensus before the trial begins. This contributes to the relief of the judicial system, increasing the trust of citizens in the judiciary and creating a more harmonious democratic society.

1.2. Regulatory framework for online dispute resolution

On December 12, 2003, the UN adopted a Declaration aimed at forming an information society in the new millennium. The main principles of this Declaration include:

1. The importance of a legal system that supports technological neutrality and is characterized by transparency and competitiveness that takes into account national characteristics to create an information society oriented to the needs of citizens.
2. Application of information and communication technologies in order to improve the quality of everyday life.
3. The significance of ICT for increasing the efficiency of public administration bodies.

Recommendations on the implementation of e-democracy were provided to the Central Committee of the Republic of Moldova on February 18, 2009. This document defines e-justice as the application of ICT in the field of justice to improve public services, including electronic information exchange [12, 13].

A separate Recommendation of the Central Committee of the Republic of Moldova emphasizes the provision of legal services to citizens using modern technologies. Among such services is the possibility of electronic registration of cases, access to the court information system and obtaining results in electronic format.

The expert from the Netherlands, Dori Reiling, distinguishes four levels of electronic interaction between citizens and the state, developed within the framework of the EU: from simple online information to full-fledged electronic transactions.

In 2021, 193 UNESCO member countries adopted the Recommendation on Ethics in Artificial Intelligence. The main principles include:

- proportionality and prevention of harm;
- ensuring security;
- principles of justice and avoidance of discrimination;
- stability of system operation;
- protection of privacy and personal data of users;
- ensuring human intervention and decision-making;
- transparency of the systems and the ability to explain their decisions;
- responsibility of system developers and operators;
- increasing the level of awareness and literacy of users;
- flexible system management and cooperation support [54].

The main values on which the recommendation is emphasized:

- respect for human rights and freedoms, as well as human dignity;
- promoting the preservation and well-being of the environment and ecosystems;
- support of cultural and social diversity;
- the desire to create inclusive, peaceful and just societies where there are strong relationships [54].

On June 16, 2021, the Committee of Ministers of the Council of Europe established guidelines for the use of online dispute resolution methods (ORD) in civil and administrative cases.

– The members of the Council of Europe are recommended to build the ODR system in such a way that it is trustworthy and does not hinder guaranteed access to justice.

– The general procedural standards adopted for traditional court proceedings should also be applied to legal proceedings that use ODR, except when the specifics of a particular ODR do not provide for it.

– Participants of online transactions must provide identification using reliable and secure tools [45, c.168].

In December 2018, at the Plenary meeting in Strasbourg, the European Commission for the Efficiency of Justice (CEPEJ) approved the "European Ethical Charter for the use of AI in the judicial sphere". The main principles of this charter include:

- Observance of basic human rights.
- Guarantee of equality and lack of bias.
- High quality and reliability of systems.
- Ensuring openness, objectivity and a fair approach.

– Ensuring that users have full control and understand their actions and choices in the system

On December 9, 2021, the European Commission for the Efficiency of Justice (CEPEJ) presented its Action Plan for 2022 - 2025 entitled "Digitalization for the improvement of justice".

The main provisions of the plan include:

- The priority of the human factor in justice.
- The need to provide adequate support for judges, prosecutors, their teams and other justice professionals to adapt to the digital age.
- Although digitalization can make justice more productive, it should not try to replace the role of the judge. The judge must always remain a key figure in the judicial process.

1.3. Methods and technologies of online dispute resolution

The essence of the digital economy (CE) and its component - e-business, is based on the use of the latest technologies for communications between its actors. This feature affects the structure of participants (in particular, the presence of virtual companies) and the subject of interactions (emphasis on intangible objects, such as Internet resources, websites, online stores, and so on). Electronic communication and digital contractual relations lead to a special approach to conflict resolution in this field.

On the other hand, foreign experience shows the active use of online procedures for resolving disputes, such as in Canada or in EU countries. While in Ukraine, such approaches are only beginning to gain popularity, and do not yet have a proper legal basis, similar to the EU.

In the analog economy, there are already known conflict resolution mechanisms, such as court or mediation procedures. However, the influence of CE encourages the emergence of new, online procedures based on digital technologies. Thus, we can distinguish two groups of dispute resolution methods: traditional for the analog economy and modern online methods that require the use of digital tools [55, c.38].

Traditional methods of dispute resolution usually involve turning to the judicial authorities through the submission of relevant applications. Depending on the specifics of the dispute, the application may be sent to a civil, commercial, administrative or arbitration court (provided there is an agreement between the parties and if the law does not provide otherwise). Another approach is the administrative-judicial method, which requires a preliminary appeal to

the relevant regulatory body before going to court. This method is used if one of the parties does not agree with the decision of such a body.

In addition, there are alternative methods of dispute resolution, such as mediation, although they are not yet properly regulated by law. At the same time, in practice, these methods can be used with the consent of the parties, especially in private disputes that require an expert assessment, and where the parties trust the authority of the chosen specialist.

In the field of the digital economy and its important part - e-business, disputes are often related to the use of digital technologies. This requires the involvement of specialists to solve them, regardless of whether traditional or modern online methods are used [5, c.175].

Ukrainian legislation currently does not provide effective traditional dispute resolution methods in this area, and there are no clear provisions regarding online methods. This topic is becoming increasingly relevant, especially given that research in this area usually focuses on issues of liability in electronic commerce, consumer protection, administrative liability and other aspects of information law.

Most studies on online dispute resolution methods focus on international experience, especially in the context of the European Union.

As in the analog economy, the digital economy is based on the ratio of public and private interests. On the one hand, public interests require taking into account the needs of society as a whole, local communities, certain categories of participants - such as consumers, representatives of electronic business and others. The state guarantees the protection of these interests by regulating relations both at the vertical level (between citizens and authorized bodies) and at the horizontal level (for example, between the founders of enterprises).

On the other hand, private interests focus on providing opportunities for individual participants or groups of participants of the digital economy to benefit from relations with other parties and competent authorities in this field [7, c.112].

The reflection of two categories of interests in the field of the digital economy is carried out through specific legal mechanisms:

1. **Public interests** are protected through:

- Imperative requirements for participants in digital relations.
- Authorized bodies that establish standards of conduct, monitor their compliance, identify violators and apply appropriate sanctions. However, the decisions of these bodies can be appealed in court.

2. **Private interests** digital economy participants are protected through:

- Legislative norms that reflect the standard interests of the participants and allow an individual approach to behavior provided that basic principles are observed.

- Self-defense within legal limits.
- The possibility to apply to the authorized bodies in case of violations affecting the interests of the parties.
- Alternative methods of dispute resolution, if it is not contrary to the law or if the law expressly allows their use. This is especially relevant for disputes of a technical nature, where the participation of specialists is required.
- A judicial procedure that can be applied after unsuccessful attempts to resolve the dispute through authorized bodies or alternative methods.

Therefore, such a structure of mechanisms provides a balanced representation and protection of interests in the field of the digital economy [9, c.211].

Analysis of the problems presented in the article requires a deeper understanding of the specifics of relations in the field of the digital economy (CE) and e-business. These relationships are very complex and contain a number of interdependent components:

- The field of telecommunications.
- Radio frequency resource management.
- Services of electronic trust service.
- Electronic commerce.
- Electronic payments for ordered goods and services.
- Electronic management, which includes the use of information and communication technologies by state bodies.
- The application of information and, in particular, digital technologies in the processes of creating and managing a business, including the stages of obtaining permits, contractual relations and other aspects of business activity.
- Mechanisms for resolving conflicts and disputes in this area, as well as methods of interaction with those who violate legal and contractual norms, especially in the context of damage.

Therefore, the consideration of these problems requires an integrated approach to understanding the set of aspects characterizing relations in the field of CE and e-business.

Online dispute resolution (ODR) regulated by EU acts is a system of methods for resolving disputes using Internet technologies. This approach is part of the broader category of Alternative Dispute Resolution (ADR). According to European terminology, ODR is considered as a subcategory of ADR, but its whole essence lies in full online implementation [11, c.97].

This online method can be used not only by alternative dispute resolution approaches, but also by standard regulatory bodies or the court system. Thus, this procedure can be considered

as a specific method of dispute resolution, which can be used as an independent form of ADR, as well as in combination with traditional dispute resolution methods.

However, at present, pure forms of online dispute resolution are mainly used as a supplement to traditional methods, and only a few of them, especially in our region, are considered as pilot projects.

Regulation No. 524/2013, introduced by the European Commission, aims to help online consumers and online sellers resolve contractual disputes quickly, simply and cost-effectively out of court. The main points of this regulation include [36]:

- Application for out-of-court resolution of disputes arising from online sales and service agreements on the ODR platform.

- ODR is a web-based platform available free of charge in all official EU languages. The Commission guarantees the accessibility of this platform and the provision of information to EU citizens and companies through its web resources.

- Features of the ODR platform include: submission of electronic complaints, identification of competent authorities (referred to as DOPNV) and translation of necessary information, the ability to exchange information between parties in electronic format, a feedback system and additional resources for users.

- ADRs are defined as organizations that work on an ongoing basis to resolve disputes through ADR. These organizations must be registered on the ODR platform and meet the criteria defined in Directive No. 2013/11, in particular Art. 20 (2) [12].

- ODR contact points provide assistance in resolving disputes arising from complaints submitted on the ODR platform. They provide informational support to the parties regarding their rights and obligations within the framework of the agreements, the operation of the ODR platform, the rules of the elected body of the DOPNV and other methods of dispute resolution, if this is not possible through the ODR platform.

- Regarding the dispute resolution process: the complaint is submitted in electronic format, in accordance with the requirements of Art. 8 of the Regulation. After the complaint is processed, it and the relevant data are forwarded to the defendant. Additionally, information about the defendant is sent to the claimant through the ODR platform. If the parties have agreed on a specific body of DOPNV, the complaint is automatically transferred to this body.

- During the consideration of the dispute, the relevant body/entity of DOPNV must complete the process within the established time, according to Art. 8 Directive 2013/11 / EU. This is done without the need for the personal presence of the parties or their representatives, except when the rules require it or if both parties agree to such participation. Once the procedure

is completed, all relevant details (such as the date the complaint was received, the main content of the dispute, the date of completion and the outcome) are transferred to the ODR platform.

- Information is stored in a database with confidentiality and security in mind. Access to this database is provided only in the cases outlined in this document: for the DOPNV body that resolves the dispute; ODR contact points according to their tasks; and to control the ODR platform. Personal data is stored only for the necessary time and must be automatically deleted from the database no later than six months after the conclusion of the dispute on the platform.

- Informing consumers: according to Article 14 of the Regulation, in the EU, traders who conclude online agreements and online trading platforms must provide on their websites an easily accessible electronic link to the ODR platform and indicate their electronic addresses.

- In case of violation of the requirements of the Regulation, according to Art. 18, EU member states are obliged to introduce appropriate fines and ensure their effective application within the framework of the ODR platform [12, 13].

SECTION 2

PRACTICAL ANALYSIS OF COURT PRACTICE IN THE SPHERE OF ONLINE DISPUTE RESOLUTION

2.1. Review of court decisions by subject

Alternative dispute resolution (ADR) methods have evolved with the spread of the Internet, resulting in online dispute resolution (ODR) systems. While the state judicial system was also undergoing changes, in particular through the introduction of various forms of electronic justice, including "online courts". These "online courts" are not a simple variant of ODR, but represent a unique form of dispute resolution that combines the characteristics of ordinary courts and ODR. They are usually government agencies, but they actively use online conciliation procedures. If conciliatory methods do not work, the decision is made by the judge online [17].

For example, in Canada there is a Civil Settlement Tribunal (CRT) that decides cases up to \$5,000 involving debts, damages, performance of contracts, etc.

The process in CRT consists of three stages:

1. Attempting an agreement: The parties first communicate online to see if a quick agreement can be reached.
2. Mediation: CRT professionals try to help the parties find a solution.
3. Adjudication: If the conflict cannot be resolved, the CRT member makes a decision that is legally binding as a provincial court decision unless objected to by the parties.

The Civil Resolution Tribunal (CRT) was established under the British Columbia Civil Resolution Tribunal Act (2012). The introduction of CRT was carried out sequentially. He started his activities in resolving conflicts related to condominiums in July 2016 [21].

Effective June 1, 2017, the CRT began handling small claims cases up to \$5,000, with filing of claims with the CRT mandatory for most such claims.

Before contacting the CRT, the individual should try using the "Solution Explorer", which provides information and tools to resolve the conflict independently. At the next stage (facilitation), the facilitator helps the parties reach an agreement. This process usually has four stages: 1) clarification of the circumstances of the case; 2) mediation between the parties; 3) presentation of evidence; 4) preparation for a CRT decision, if reconciliation has not been achieved [7].

One of the key features of this online court is that it is the only option for dealing with certain categories of cases as prescribed by law.

In 2017, China presented its innovative initiative - the Internet court in Hangzhou. In this "digital" judicial body, all actions and procedures are performed online. Court sessions and announcements of verdicts are broadcast in real time on a special web platform, and participants in the court process participate through video communication [19].

In 2014, in Great Britain, the State Council for Civil Justice announced plans to create a unified system of online courts. According to the developers, the simple introduction of information technologies into already existing judicial mechanisms is not effective. Instead, their approach was to create a new justice system with an emphasis on online dispute resolution (ODR) methods. Their concept does not involve a traditional courtroom, instead everything happens through web services [20].

The online dispute resolution system is designed to deal with typical civil claims up to £25,000. The details of this system were described in the presentation of the project in February 2015. Based on these recommendations, a new internet-based judicial body called HM Online Court (HMOC) was proposed, which would be based on the principles and experience of ODR.

In the US, several initiatives in the field of online dispute resolution (ODR) have been implemented in cooperation with such private companies as Matterhorn and Tyler Technologies. These projects were aimed at online consideration of certain categories of cases.

In Michigan, these were cases related to non-payment of fines for violations of the traffic code. In Ohio, the main focus was on tax disputes involving small amounts. Debt collection and non-payment of fines for traffic violations were heard in New York. Similar pilot projects were also launched in Arkansas, Texas, Nevada, Georgia and other states [18].

The main feature of these projects is that ADR methods are involved in the initial stages of case consideration - such as negotiations, mediation and conciliation.

It is especially worth noting the project in Utah, where in 2018 an online court was created to consider disputes in the amount of up to \$11,000. The dispute settlement process in this court is divided into three stages:

1. **Educational and information stage:** using a specialized system, the parties receive information and consultations.
2. **Mediation stage:** promoting a peaceful resolution of the dispute through dialogue and compromise.
3. **Judicial proceedings:** the parties can choose online proceedings or a traditional court hearing [4, c.1127].

The term "artificial intelligence" was first introduced in 1955, when John McCarthy together with Dartmouth College of the University of New Hampshire in the USA presented a project aimed at developing intelligent machines. Today, artificial intelligence refers to systems that, with the help of software, can perform human-like tasks, but with significant speed. For this, algorithms and methods are used that imitate the processes of the human brain. This allows computers to adapt, acquire and use knowledge to respond to a variety of situations in a human-like manner.

The world's first online tribunal, which is fully integrated into the court system, operates in the province of British Columbia in Canada. This ODR system is aimed at quick and affordable resolution of cases of lesser complexity.

Money Claim Online in the UK is a convenient and reliable online method of making or responding to a financial claim. This e-service is designed to simplify the process of making a recovery claim if the claim amount does not exceed £100,000. However, there are certain limitations: with the help of this system, it is not possible to file a lawsuit against government authorities or against persons who are minors or under guardianship. "Money Claim Online" helps simplify the legal process for citizens, making it less expensive and faster [18].

Project Victor is an innovative tool implemented by the Federal Supreme Court to efficiently and automatically filter duplicate court decisions. This system was designed to improve the productivity of the judicial process by separating similar or identical cases and helping judges to avoid redeploying resources.

On the other hand, the "Athos" system serves as a powerful tool for the High Court of Justice, which is aimed at organizing and indexing jurisprudence. This technology facilitates the search for specific court decisions, the classification of cases according to various parameters, and provides an opportunity to ensure greater transparency and availability of judicial information for all interested parties. Thanks to "Athos", lawyers, judges and other professionals can quickly find the precedents they need and study them in order to better understand the judicial practice.

eLitigation is a modern electronic system of judicial circulation that provides the opportunity to file cases, exchange and review legal documents in electronic format, receive service and coordinate court procedures. This system is intended exclusively for interaction with certain government agencies and legal companies that have received the appropriate permissions from the Regulatory Authority for Legal Services. This restriction is implemented in order to ensure security, confidentiality and reliability of information exchange within the framework of the judicial process [6].

ACDR is an electronic system that aims to file claims for non-injury road traffic accidents, personal injury and professional negligence matters, including medical malpractice. Applicants submit their applications and provide progress updates via email within a specified time frame. In particular, the court interacts with the parties, providing instructions and comments also via e-mail. A feature of this system is the holding of so-called "paper hearings", where the judge considers case materials submitted in electronic format, without the physical presence of the parties in the courtroom.

SUVAS is an innovative neural automatic translation system specialized in translating legal documents between English and Indian languages. Using modern deep learning technologies, SUVAS ensures high accuracy and intelligibility of translations, which is critical in the legal field, where every word can have significant consequences.

SUPACE is an intelligent assistant designed specifically to support judges in their work. The system allows judges to quickly find the necessary information from the case documents, helping to answer key questions that arise during the proceedings. Instead of going through all the case files, a judge can simply ask a question to the SUPACE system and quickly get an answer based on an analysis of the entire volume of documentation. This approach significantly simplifies the judge's work and increases the efficiency of the judicial process [9].

Xiao Zhi 3.0 is an advanced version of the system that was originally designed to perform simple tasks. However, with the development of technology, its capabilities have been significantly expanded. Xiao Zhi 3.0 is now capable of recording testimony through voice recognition, analyzing case files, and verifying information using real-time databases. This makes the system an indispensable aid in legal proceedings, promoting fast and accurate work.

XiaoBaogong is an innovative tool for intelligently predicting decisions in court proceedings. Using advanced algorithms and large amounts of data, the system can predict a possible court decision based on similar previous cases. This approach can be useful for lawyers and their clients in planning a defense strategy or preparing a lawsuit.

Situations where AI intervenes in legal matters: The case with the Tesla car

In May 2016, one of the Tesla models equipped with autopilot functions was involved in a serious traffic accident in which one person died. As a result of a collision with a truck trailer, the 42-year-old driver of the unmanned vehicle received fatal injuries. The driver of the large truck was not injured in this tragedy.

According to information from Tesla, the cause of the accident was the inability of the car's sensors to recognize the large truck against the bright sky. A detailed analysis of the accident conducted by the Florida Highway Patrol found that the Tesla driver may not have

been paying enough attention and did not take the necessary precautions to avoid the collision. It was separately noted that the truck driver did not give way when turning [51].

This case raised many legal questions: who should be responsible for such a situation? Is it the car manufacturer, the development and programming team that created the autopilot system, the car driver, or maybe the insurance company? The incident highlights the importance of regulation and accountability in a world where technology is becoming increasingly autonomous.

Issues of discrimination in facial recognition technologies: The case from New Zealand

In 2016, a young 22-year-old engineering student from New Zealand ran into a problem when he tried to update his passport photo. The automated system of the country's interior department refused to accept his photo, claiming that his eyes were closed, when in fact they were open. A student of Asian origin experienced the limitations and imperfections of facial recognition technology [51].

When interacting with the media, he approaches the situation with great tolerance, commenting that he was born with small eyes and understands that technology is not yet perfect. However, this incident highlights the importance of continuous improvement of technological systems and the need to take into account the diversity of the characteristics of people around the world in order to avoid similar problems in the future.

Case on the use of SyRI in the Netherlands (2020) (District Court of The Hague)

In 2020, the District Court of The Hague made an important decision regarding the application of the electronic payment fraud detection system known as SyRI. This system has been particularly actively used in socially vulnerable areas of the Netherlands in order to detect possible fraud with social benefits.

The problem was that the use of SyRI proved to be a violation of citizens' rights to privacy, especially through the use of so-called "risk indicators". The court recognized that these indicators could interfere too intensively in people's private lives, without adequate guarantees of their privacy [51].

Additionally, the legislation governing SyRI was found by the court to be insufficiently transparent. There was no clarity about exactly how the system works, what data it collects and how this data is analyzed. This lack of transparency endangered the basic rights of citizens.

As a result, the court found that the legislation governing SyRI was in conflict with Article 8 of the European Convention on Human Rights. This article provides for the protection of a person's right to respect for his private and family life, his home and correspondence. Based on this decision, the court ordered that SyRI be discontinued.

The Case of Glenn Rodngues: Discrimination by Artificial Intelligence in Law Enforcement

Glenn Rodngues was convicted at the age of 16 for participating in a robbery that resulted in a murder. A quarter of a century after his conviction, when the question of his parole came up, the artificial intelligence system COMPAS identified him as a "high risk" to society. This conclusion became the basis for refusing to release Rodngez.

The main question that arose was how exactly the COMPAS system arrived at its conclusions. The company that developed COMPAS refused to disclose the algorithms of its system, citing commercial interests.

Rodriguez decided to find out what his assessment was based on, and found that his "high risk" was based, in part, on the subjective opinions of prison staff. This raised the question of possible racial biases in the evaluation by security guards [18].

The Rodriguez case highlights potential problems with the use of artificial intelligence systems in the law enforcement sector, particularly when the algorithms remain hidden from the public and may involve subjective or biased assessments.

Ed Bridges v South Wales Police (2020): facial recognition technology and privacy

In 2020, a court ruled that South Wales Police's use of facial recognition technology in public places breached citizens' rights to privacy, as well as data protection and equality laws. The court determined that there were serious gaps in the current legislation, due to which the rights of Ed Bridges were violated. The court verdict suspended the use of this technology by the police on the streets of Great Britain [18].

In 2021, the Italian Council of State supported the decision of the Italian Antimonopoly Service and the Regional Administrative Tribunal of the Lazio region to impose a fine on Facebook for violating commercial ethics. Facebook was fined seven million euros for cheating its users. They did not receive adequate and timely information during account registration that their data would be used for commercial purposes.

In the case "Cass v. 1410088 Ontario Inc." The Superior Court of Ontario expressed its position regarding the use of artificial intelligence technologies in legal practice in order to optimize training costs. The court disagreed with the \$900 fine for "legal research," including an analysis of precedents freely available in public legal resources [18].

From the court's point of view, any competent lawyer already has basic legal knowledge at his disposal, and therefore the need for additional "research" conducted by an obscure third party looked suspicious.

The court opined that in the case of the use of artificial intelligence technologies to assist in analysis and preparation, the time an attorney would spend on research would likely be

significantly reduced. This highlights the importance of adopting the latest technologies in the legal field to increase efficiency and reduce costs.

Roberto Mata v. Avianca, heard in the Southern District of New York in 2023, raised significant issues related to the use of artificial intelligence technologies.

The plaintiff's attorney stated that he used ChatGPT to supplement his legal work while preparing a response to the defendant's motion. However, the judge noted that the six cases cited in the statement were false, including fabricated quotes and additional data. The judge described this situation as an "unprecedented case".

In his defense, the attorney noted in an affidavit that ChatGPT not only provided the recommended legal resources, but confirmed their reliability, including opinions and quotes that the judge later disputed.

In connection with these circumstances, the court decided to impose financial responsibility on the lawyer and his law firm, imposing a fine of 5,000 dollars.

The June 2, 2023, decision by Judge Brantley Starr of the US District Court for the Northern District of Texas established new requirements for attorneys and other litigants [27, c.353].

According to this order, all legal entities representing interests before the court must submit proof that no part of their material was generated by artificial intelligence generating systems such as ChatGPT, Harvey.AI or Google Bard. If information obtained from such systems is used, it must be checked against printed sources or standard legal databases by a human.

PROS OF USING AI IN THE JUSTICE SYSTEM:

- Increasing the availability of legal aid
- Saving money on court proceedings
- Optimization of the judicial process
- Speeding up the resolution of legal disputes
- Ensuring consistency in court decisions
- Improvement of evidence base analysis methods.

PROBLEMS:

- Privacy risks and the possibility of data leakage
- Danger of discrimination and colored decisions
- The threat of comprehensive surveillance
- Digital inequality (not everyone has access to the latest technologies)
- An increase in the number of unfounded lawsuits
- High costs for the development and maintenance of AI-based digital solutions

- Loss of human emotional interaction and compassion
- The problem of interpreting the motivation of automated decisions.

In June 2019, the Beijing Internet Court launched a virtual judicial center with a virtual judge based on artificial intelligence. This "judge" was designed to automate repetitive tasks, such as receiving claims, allowing judges to focus on the merits of the case [3, p. 93-94].

Additionally, in 2016 researchers from the University of Pennsylvania and the University of Sheffield developed an AI-based program that could predict ECtHR decisions by studying previous decisions. They achieved an accuracy of 79%, which is an impressive figure.

Based on the above, we can distinguish two main forms of application of artificial intelligence in judicial proceedings:

1. The support option, where AI acts as a support tool, helping judges analyze information, find relevant jurisprudence or assess risks. This approach is often called "predictive justice". It is important here to distinguish AI from other digital tools such as electronic ledgers, as a key feature of AI is its ability to self-educate and adapt.

2. AI as a potential replacement of the judge. Although some internet platforms already use internal algorithms to resolve conflicts, no country has yet considered the full implementation of "digital judges". This is combined not only with technical challenges, but also with the need for significant changes in the legislative framework, in particular in constitutional and procedural law.

As A. Zukerman emphasizes, the authority of the judicial system largely comes from its moral basis, as courts take into account human emotions, beliefs and social consciousness. Machines, in turn, have no subjective consciousness and are based only on statistical patterns through their algorithms. This can lead to a disconnect between mechanical problem-solving and human perceptions of justice, which will undermine trust in legal institutions [56].

Such reflections can also be applied to the discussion of the application of AI in the field of alternative conflict resolution. While the requirements for AI may be less stringent in the private law field, it is important to understand the extent to which parties trust such systems. There is a discussion on the possibility of using AI in international arbitrations. If the parties to the conflict decide that automated dispute resolution is efficient and beneficial, they can submit their case to such virtual arbitration. A key question, however, is whether state courts will recognize decisions made by such automated systems.

2.2. Problems and challenges in judicial practice

In today's world, where technologies are becoming increasingly important in people's lives, their use in the judicial system is also becoming an integral part. However, with the widespread use of technology comes a number of technical limitations and shortcomings that can affect the effectiveness and credibility of the online dispute resolution system.

One of the main problems is the reliability and availability of platforms. Although many platforms are constantly updated and modernized, technical failures are possible, which can lead to the loss of important information or delays in processing cases. For example, in 2019, the online justice system in one of the European countries became unavailable due to a heavy load, which caused delays in the consideration of cases.

In addition, there is the issue of maintaining privacy and data security. Because online platforms store large amounts of personal information, they can become a target for hacker attacks. Criminals can use the obtained data for fraud, blackmail or other criminal activities. Protecting such systems from targeted attacks becomes an important priority for governments and developers [23, c.217].

Another limitation is the computer literacy of the participants. While the younger generation is generally tech savvy, older citizens may find it difficult to use online services. This may lead to inefficient use of the platform, or even to the fact that some citizens will abandon online services in favor of traditional dispute resolution methods.

In addition to technical challenges, online dispute resolution can also face a number of sociocultural challenges. One of the key problems is distrust of electronic methods of dispute resolution. For many people, especially those who are used to traditional methods of doing business, the transition to an online format can seem uncertain or confusing. For example, in a number of countries where traditional justice plays an important role in society, people may feel skepticism about the use of Internet technologies in legal processes.

In addition, cultural and language barriers can become an obstacle to effective communication between participants in online dispute resolution. In a globalized world where legal disputes can arise between individuals from different countries and cultures, it is important to ensure clarity and accessibility for all parties. This is especially true for international online dispute resolution platforms where translation or cultural adaptation may be required.

Another problem is stereotypes and prejudices in electronic justice. Yes, it is possible for people to think that virtual court hearings are less "serious" or less "official" than real-life hearings. This can lead to the perception of online court decisions as less justified or less important [25, c.84].

Therefore, when developing and implementing online dispute resolution systems, it is important to consider these socio-cultural features and actively work to overcome them in order to ensure the success and trust of such systems in society.

Implementing and maintaining online dispute resolution systems can require significant initial investment. The development of reliable, secure and user-friendly platforms requires large capital investments in technology, as well as screening and training of personnel who will serve them. For example, they will need to be adapted to specific legal systems, cultural features and linguistic needs of users.

However, on the other hand, the implementation of such systems can lead to a significant reduction in the cost of litigation for the parties. Savings can be associated with the absence of the need to rent premises for court sessions, payment for the services of secretaries and other employees, as well as a reduction in costs for logistics and movement between regions or countries.

In addition, online systems can make legal proceedings more accessible to a wider range of people. For many people, especially those who live in remote areas or do not have sufficient financial means to cover the costs associated with traditional court proceedings, such systems can be a window into the world of justice. This makes court proceedings not only more effective, but also more accessible to all participants, ensuring equal access to justice [28].

The interaction between traditional courts and online dispute resolution systems creates a number of challenges. First, there is the question of how to bring the two systems together so that they complement each other rather than compete. Sometimes decisions made online may require approval or review by a traditional court. For example, in some countries, decisions made through online dispute resolution systems may require formal court approval to be enforced.

It also raises questions about the role of judicial officers in the new electronic environment. If previously their main role was to interpret the law and apply it to specific circumstances, now they may need a set of skills to interact with technology and ensure effective communication in an online format [33, c.637].

Therefore, the need to train and prepare court employees to work in an online environment becomes critical. This may include learning how to use specialized software, the basics of cyber security, and developing effective online communication skills. For example, judges in the Netherlands take special courses in the use of an online dispute resolution system to ensure their readiness for the new challenges of modern justice.

2.3. Scenarios for effective use of online dispute resolution

To ensure access to a fundamental public service for businesses, the European Bank for Reconstruction and Development (EBRD) is launching a pilot project to help countries set up online small claims courts.

The coronavirus pandemic increased the urgency of the issue of court accessibility, which exists in many countries in which the Bank operates. This is explained by the overloading of the judicial system with cases, the significant cost and duration of the process, and its high level of complexity.

In many cases, it is difficult for small and medium-sized enterprises (SMEs) to effectively protect their rights and interests. According to a survey published in the EBRD report about the 2019-2020 transition, 17% of SMEs consider courts to be a "main" or "very serious" obstacle to their activity. Costs associated with legal proceedings are one of the biggest barriers for SMEs [34, c.165].

The introduction of online courts in developed economies such as Canada, the United Kingdom or the United States of America has produced impressive results, as recent research. Online courts provide that the dispute resolution procedure is carried out remotely, starting from the filing of a claim and ending with the rendering of a decision. These courts are directly accessible to litigants and their representatives, and are complemented by services and tools to facilitate access to justice and participation in the legal process.

The EBRD pilot project aims to develop a system built on the experience of these countries and make it available to the countries of the Western Balkans, Eastern Europe, the Caucasus and Central Asia. The project will start in Ukraine, where 49% of companies in Kyiv reported in the aforementioned survey that courts are a major or very serious obstacle to their operations.

In order to improve access to justice for SMEs, the category of cases with a small value (from 5,000 to 10,000 euros) was chosen for the pilot project. In the case of small claims, disproportionate legal costs and delays are unfair barriers that can be overcome by online courts. According to the World Bank, the cost of resolving a commercial dispute through a local court of first instance in Serbia is on average 39.6% of the cost of the claim, while in Ukraine this figure is 46.3%, and in the Kyrgyz Republic - 47% [35, c.8].

As a first step, the EBRD begins a comprehensive assessment of indicators and standards of court activity based on the best international, European and national practices of commercial courts. The developed standards and indicators will guide and set performance targets for the concept of online courts, which will be developed in the second component of the project.

Accordingly, the second stage will be devoted to the development of the concept and development plan of online courts in Ukraine, highlighting the necessary legal, technical and budgetary prerequisites for their creation. The concept and roadmap developed in the second phase for Ukraine can be replicated in other economies where the EBRD invests.

The procurement notice for the technical assistance project on court performance indicators and standards has been published on the EBRD public procurement electronic platform SMART by GEP (see Procurement Notice #PR001982, “Regional: Cross-Regional Court Performance Assessment” for more information and to apply). Registration is required to view the purchase notification.

SECTION 3

CURRENT TRENDS AND PERSPECTIVES OF THE DEVELOPMENT OF ONLINE DISPUTE RESOLUTION

3.1. Innovative technologies in online dispute resolution

Today's justice system faces the challenge of adapting to modern realities, including the needs of the Internet age and the need to respond to the effects of global crises such as pandemics. To improve the justice system by reducing the burden on the courts and taking into account the costs of their digital transformation, it is necessary to actively implement Alternative Dispute Resolution (ODR) with the help of the latest technologies.

Such an approach will allow not only to respond to unforeseen challenges, but also to make justice accessible to all, including persons with disabilities and the younger generation, who are already inextricably linked to the digital world. It is important to remember that the main goal is to achieve a result that satisfies the parties, and not just to follow the formalities of the process.

Having witnessed how the traditional judicial system can be too slow and ineffective, especially in times of crisis, we must recognize that the future of justice requires online modernization. Such digital transformation will include not only the automation of court procedures, but also the use of alternative dispute resolution methods.

While the pros and cons of online courts and alternative dispute resolution could be argued in the past, modern circumstances have highlighted the weaknesses of the traditional court system. Thus, some researchers believe that traditional justice often loses credibility due to its formality and stereotyping, which discourages people from going to court [38, c.112].

Research in the field of alternative dispute resolution confirms their high effectiveness. For example, in 2017, the Institute for Dispute Resolution (IDR) NJCU School of Business prepared a report for representatives of UNCITRAL, which found that the majority of respondents (76%) often or always include negotiation agreements in their contracts, while only 23% never do. When asked whether they would be willing to include mediation agreements if there was a unified mediation mechanism similar to arbitration, more than 80% said yes [30].

Regarding remote work, a study by Factum Group Ukraine indicated that during the quarantine-related restrictions, almost a third (36%) of Ukrainians switched to remote work entirely. Taking into account the large sample (more than 300,000 respondents) and non-contact methodology, these data can be considered a reflection of the national trend [49].

In addition, a survey conducted by the National Center for State Courts in 2014 showed that the majority of respondents (55%) prefer working in an office. However, according to 2020 data, this dynamic has changed: 64% expressed a desire to work remotely, against 33% who believe that it is better to work in an office [49].

Online mediation, particularly that which takes place via video conferencing or telephone, offers numerous advantages even outside of crisis situations. This allows you to save time and travel costs. In the current circumstances, when many people find it difficult to move due to government, employer or medical restrictions, and the possible limitation of financial resources for legal proceedings, the advantages of such mediation become even more obvious.

The Singapore International Mediation Center (SIMC) provides a concrete example of how this approach can be used effectively. On May 18, 2020, SIMC introduced a special protocol for the period of the COVID-19 pandemic, providing companies with a fast, cost-effective and efficient method of resolving international commercial disputes. According to their website, most such mediations are completed in just one to two days, with a success rate of around 80% [48].

The process begins with submitting a request on the SIMC website and paying \$250. After that, SIMC guarantees mediation within 10 working days. Additionally, reduced fees and flexibility in certain situations make the process attractive to the parties. The main feature is that the entire process takes place online. This protocol was active until the end of 2020, and after its completion it will be possible to assess how effective it was.

An increasing number of cases are resolved through mediation rather than litigation. For example, according to data from the Financial Industry Regulatory Authority (FINRA) in the US, 223 cases were resolved through mediation in April 2020, compared to 194 in 2019. For comparison, in 2018 this number was 242 for the entire year, while the 2020 figure is not yet final and is already equal to the 2018 figure.

The COVID-19 pandemic has had a significant impact on the shift towards alternative dispute resolution methods. Since the beginning of March 2020, online mediation has become a popular tool for a variety of disputes, ranging from commercial disputes to family conflicts. This approach has already become widespread not only in countries where mediation is traditionally used, such as the USA and Great Britain, but also in countries such as Croatia.

However, it should be emphasized that the success of online mediation requires the active support of judicial authorities, governments and international structures. They should promote the development of mediation, in particular by setting standards for online mediation. This will allow the courts to focus on those cases that really require judicial intervention, ensuring the

efficiency and thoroughness of the proceedings. As a result, it will improve access to justice and its quality.

In 2020, the judicial system and the way justice is delivered are significantly different from previous years. This is due to the need to adapt to the latest court technologies and remote work, especially in light of the challenges associated with the COVID-19 pandemic. Remote methods can provide easier access to conflict resolution for all stakeholders.

However, it is necessary to remember the role of the mediator. Regardless of whether it is a live person or a computer program, the mediator must follow the basic principles of mediation. Its main purpose is to be a "procedural manager" without interfering in the content of the dispute. The mediator should not express his own judgments, advise or propose solutions. His duty is to ensure neutrality, helping the parties find a common solution [37].

It is important that the mediator always remains neutral and does not allow either party to feel biased. If the parties begin to doubt the mediator's objectivity, he must admit his incompetent position and stop his intervention in the process.

The mediator must act objectively and neutrally. The use of computer platforms simplifies the implementation of this principle, since intermediary bots, based on algorithms, analyze the entered information without emotional dependence. In addition, when conducting electronic mediation, it is necessary to maintain confidentiality, which is key to providing trust in the mediation process.

For example, the CyberSettle platform allows parties to discuss issues anonymously, disclosing information only when both offers meet established criteria. Since 1998, CyberSettle has successfully resolved numerous disputes valued at over \$1.6 billion. Such platforms often have established privacy policies that parties agree to abide by.

However, it is worth remembering that court hearings, unlike mediation, are usually public. Even during the pandemic, court proceedings in Ukraine were broadcast online. In two months of 2020, 174 court hearings were shown through YouTube channels. Therefore, mediation can be especially useful for those who are looking for a confidential way to resolve conflicts.

To reduce possible problems with Internet mediation, it is recommended to simplify the procedure for filing complaints, make the design of the platform as simple as possible, but at the same time user-friendly. Before starting work with the system, it is useful to familiarize the user with its functions, providing instructions and hints during use. Additionally, you can implement system reminders for user activity. To help those who do not have access to the Internet or a personal computer, centers equipped with the necessary equipment and personnel for consultations can be opened [39, c.113].

The coronavirus pandemic has complicated the work of the justice system, but the need for dispute resolution remains. Therefore, alternative resolution of conflicts through mediation is becoming more and more relevant.

Online mediation has its advantages:

- Remote participation in the process allows the parties to retain control over the decision without having to hand it over to a judge.
- Organizing meetings on the Internet is quick and convenient for all participants.
- There are a number of online platforms available, such as Skype, Zoom, FaceTime, to conduct mediation sessions.

However, there are also disadvantages:

- Potential technical issues can hinder the process.
- Participants will need to know how to use the chosen platform, which may require additional training time.

The National Center for Technology and Conflict Resolution has implemented the Ethical Guidelines for Internet Dispute Resolution, designed to improve the quality and efficiency of such procedures through technological means. This document is based on the Center's previous efforts to define standards of practice, as well as through the analysis of a large number of materials and standards of other organizations dealing with online and general dispute resolution [41].

These principles, presented in no particular hierarchy, constitute an interrelated set of recommendations. They are designed for a wide range of users, facilitating the integration of online dispute resolution methods into various systems. The principles are aimed at guiding and improving approaches to ethics in the field of ODR, both in the public and private sectors. Over time, additional or refined principles may appear, but they act as a basic set of values adapted to modern conditions.

These ethical principles include: access, compliance, qualification, confidentiality, empowerment, equality, fairness, honesty, objectivity, informed participation, innovation, integrative approach, legal responsibility, neutrality, protection from negative consequences, security and openness.

3.2. Recommendations for improving the online dispute resolution system

The online dispute resolution system has become an important tool in today's digital society. With the growth of commerce through the Internet, as well as the globalization of communications, consumers and companies are increasingly faced with various conflicts that

arise in the online space. That is why the need for effective mechanisms for resolving such disputes is becoming more and more urgent.

Traditional legal systems often cannot respond quickly and effectively to conflicts arising in a virtual environment. Litigation procedures can be costly, lengthy and difficult for both parties, especially when the case is international in nature.

Online dispute resolution attempts to respond to these challenges by offering faster and less expensive ways to resolve conflicts. However, despite its potential advantages, the system also has its shortcomings and areas that need improvement [44, c.17].

First of all, there is some skepticism about the objectivity and fairness of decisions made within online mechanisms. Sometimes they can be perceived as less legitimate compared to decisions made by traditional courts. In addition, the introduction of new technologies, such as artificial intelligence, into the handling of cases may raise additional questions about ethics and transparency.

Another challenge is the availability and popularity of such services among the population. Not all internet users are aware of online dispute resolution or trust these platforms.

Therefore, although the online dispute resolution system has significant potential and can play a key role in today's digital society, it needs further improvement, in particular with regard to ensuring its transparency, objectivity and accessibility for all users.

The current state of the online dispute resolution system is represented by a wide range of platforms that try to respond to the needs of users in resolving conflicts in the Internet space. These platforms are designed to provide speed, convenience and efficiency in handling cases arising in the online environment [53].

For example, popular electronic trading platforms such as eBay or Amazon have built-in dispute resolution systems for their users. These systems are aimed at solving problems between buyers and sellers, such as product not matching the description, delivery or payment problems. These platforms usually offer automated tools for solving common problems, as well as the possibility for direct dialogue between parties.

The advantage of such systems is speed and convenience. They provide users with tools to independently resolve disputes without the need to refer to external experts or lawyers. In addition, such platforms are often chosen due to the absence or reduction of costs for the services of professional intermediaries [40, c.89].

However, there are also disadvantages. Automated systems may lack a deep understanding of the specifics of each individual case. Also, due to technology limitations, decisions can be made based on standard scenarios, which may not always take into account all the nuances of a specific situation.

In addition, trust in such systems may be limited due to their virtual nature. Many users may prefer traditional methods of dispute resolution, such as face-to-face meetings or court proceedings, where a more in-depth and detailed discussion of the problem is possible.

Taking this into account, it can be argued that modern online dispute resolution systems play an important role in resolving conflicts in the Internet environment, but their potential has not yet been exhausted, and there is a need for their further improvement.

Improving the online dispute resolution process requires the introduction of the latest technologies that will help make the system more efficient, dynamic and user-oriented. The use of advanced technologies will not only help ensure a faster resolution of disputes, but also ensure transparency and objectivity of decisions.

In particular, artificial intelligence can be integrated into dispute resolution systems to perform data analysis and identify typical patterns in disputes. For example, on the basis of large amounts of data from previous cases, the system can automatically offer optimal solutions for similar disputes [42].

In addition, blockchain technologies can be used to ensure transparency and immutability of decisions. This ensures that neither party can interfere with the process or change the documents after they are submitted.

In order for Online Dispute Resolution systems to be even more effective, it is also important to focus on their integration with existing platforms. This means that, for example, e-commerce platforms can have direct access to ODR systems to automatically route disputes to resolution. This approach helps to solve problems quickly and seamlessly.

Ultimately, the key success factor is user-friendliness and accessibility. It is important to design intuitive interfaces that are easy to use for all users, regardless of their technical literacy.

Justice is a key principle of any legal system. Therefore, when developing legal norms for ODR, it is important to ensure that the system takes into account the interests of both parties and is not biased towards either of them. For example, a mechanism can be introduced to ensure equal representation of the parties in the dispute resolution process.

In addition, creating legal standards for online dispute resolution practices will help shape expectations for the quality and professionalism of services. In particular, the implementation of standards regarding confidentiality, transparency of the process and qualifications of mediators or arbitrators working in the ODR system can be considered.

To ensure the interoperability of ODR and traditional legal systems, it is also important to consider how decisions made through online platforms will be enforced at the national level. For example, mechanisms need to be developed to allow easy recognition and enforcement of ODR decisions in traditional courts [40].

In the context of globalization and the development of international trade, there may also be a need for international standards for ODR to help harmonize practices and procedures between different countries.

Transparency in the ODR process is the key to mutual understanding between the parties. This means that both parties have full access to information about the progress of the process, dispute resolution methods and the roles of the participants. For example, if the process uses artificial intelligence to analyze data or make a decision, the parties need to understand how this algorithm works and what principles its work is based on.

Neutrality ensures that the ODR process is conducted without bias and ensures that the parties are equal. It is important that each party feels that their position is heard and respected. If, say, an arbitrator or mediator has any vested interest in resolving a dispute in favor of one party, this can undermine confidence in the process.

Confidentiality ensures the protection of personal information of the parties and details of the dispute. In a world where data can easily fall into the wrong hands, it is important to ensure that the information provided under ODR remains confidential [42].

To ensure an informed interaction between the parties, resources can be made available that explain how the ODR system works and what the rights and responsibilities of the participants are. For example, you can create an interactive webinar or educational material for parties before they decide to use ODR.

It is important for ODR professionals not only to understand the basic legal principles, but also to be familiar with the latest technologies used in the process. Creating specialized training programs can help professionals learn the necessary skills and knowledge. For example, courses that combine elements of law and digital technology can prepare mediators or arbitrators to work in an online environment.

In addition, it is important for the public to understand the benefits and opportunities that ODR provides. Information campaigns, webinars or workshops can be useful in explaining the basic principles and benefits of online dispute resolution. Not only will this help people understand how they can benefit from this dispute resolution method, but it will also help build trust in the process. Let's imagine an information campaign that tells the real story of a business conflict that was successfully resolved with the help of ODR, while demonstrating the speed, efficiency and confidentiality of the process.

In the context of continuous digitalization and the growing need for online dispute resolution, it is important to actively consider and implement the latest approaches and technologies in practice. The innovations we have reviewed, from technological to legal, provide a solid basis for improving the efficiency and accessibility of the ODR system.

Prospects for the further development of the ODR system are inextricably linked to global trends in technology. Artificial intelligence, blockchain and other advanced technologies can play a key role in ensuring fairer and faster online dispute resolution. But it is important to remember that technological progress must go hand in hand with ethical and legal standards to guarantee the rights of participants and maintain trust in the system.

The Online Dispute Resolution system is on the threshold of significant changes dictated by modern technological and social challenges. The recommendations studied indicate opportunities and strategies that can significantly improve the quality and accessibility of ODR for all participants in the process. They are an important guide for stakeholders seeking to reform and modernize this system, ensuring it is relevant to today's needs and challenges.

CONCLUSIONS

The study highlighted the deep essence of online dispute resolution as an alternative to traditional methods of conflict resolution. Online dispute resolution is becoming especially relevant, thanks to its ability to offer solutions to conflict situations with great speed, while ensuring the accessibility of the process for all interested parties. This creates added value for participants, who can save both time and resources.

The understanding of the legal framework in the field of ODR showed that today the legal framework is still not perfect. Although there is some legislative support, there is no single consolidated legal framework governing all aspects of ODR. This creates a need for additional legislative regulation to guarantee quality standards and ensure the protection of participants' rights.

When analyzing the practical side of ODR implementation, several important points were revealed. Court decisions based on online dispute resolution often reveal problems arising from the instability of technological platforms or insufficient understanding of the specifics of this process. Also, one of the key issues is ensuring the confidentiality of information processed during ODR. Judges and other members of the judicial system must learn more about and adapt to these features to ensure effective and fair dispute resolution in the digital age.

The modern world is constantly evolving due to the rapid progress of technology, and this directly affects the field of ODR. Innovations such as artificial intelligence are becoming increasingly important in conflict resolution. In particular, the use of artificial intelligence can help identify the nuances of a dispute, analyze previous decisions and offer optimal options for solving specific situations.

Online dispute resolution certainly opens up new horizons for the judicial system, providing an opportunity to resolve disputes more efficiently and quickly. However, this potential can only be realized when we focus on the harmonious combination of technology and the legal system. This requires not only the introduction of the latest technologies, but also a deep understanding of their impact on the social, cultural and ethical aspects of society. Only such a balanced approach will allow us to enjoy the benefits of ODR while preserving the fundamental principles of justice and law.

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