

ELECTRONIC TECHNOLOGIES IN CIVIL PROCEDURE: PROBLEM STATEMENT

A. Yu. Kalamaiko

**Post Graduate Student of the Civil Procedure Department
The National University «Yaroslav the Wise Law Academy of
Ukraine»**

Abstract. In article is being considered the implementation of electronic technologies in the civil procedure. Highlighted forms and foreign experience of the implementation of modern computer technology in the judicial procedure.

Key words: electronic technologies, civil procedure, civil proceedings.

ЕЛЕКТРОННІ ТЕХНОЛОГІЇ В ЦИВІЛЬНОМУ ПРОЦЕСІ: ПОСТАНОВКА ПРОБЛЕМИ

А. Ю. Каламайко

**аспірант кафедри цивільного процесу
Національного університету «Юридична академія України імені
Ярослава Мудрого»**

Анотація. Розглядається питання впровадження електронних технологій у цивільний процес. Досліджуються форми та зарубіжний досвід імплементації сучасних електронних технологій у судовий процес.

Ключові слова: електронні технології, цивільний процес, цивільне судочинство.

In modern realities of widespread development of information technology is hardly necessary to explain how the world has changed under the influence of the Internet and the development of digital technology in general. Today most of the correspondence exists only in electronic form, counterparts enter into contracts remotely and thanks to the broadband Internet connection videoconferences became commonness. Such rapid development significantly alters the form of communication in society, while law often does not regulate such changes in social life. In such circumstances, the urgent issue of the introduction of electronic technology

in civil litigation as it continues to exist only in regular paper form. So, how can we use new information technologies in our national civil procedure?

Usage of information technologies can be various. We can use electronic messages as evidence in court, appeal to court in the electronic form, we can organize internal and external workflow, use latest technologies to automatize court orders and, as a kind of result, create an e-court. Let's look closer, how can it be.

E-mail as evidence. Today electronic messages, or e-mails, are an integral part of work of almost any company. Quite often, almost all the evidence in favor of one party is comprised of e-mails (for example, messages where the other party acknowledges the existence of debt). Most lawyers are convinced that such messages will not be accepted by the courts of law under any circumstances and it is not even worth trying to prove something on their basis. This, however, is not always true. There are few methods, which can be used to make electronic messages legal evidence in court.

The first method is to draft a notarial protocol. You provide access to the Pc which contains electronic messages, to the notary. He will then examine the electronic correspondence and draw up a detailed act of his actions. This act describing e-mail will be accepted by any court.

The second method to legalize electronic messages is to confirm the information, contained in them, through normal, "paper" correspondence. You may try to write a letter to your counterpart, stating besides other facts, that "as you have stated in the e-mail.." and describe details. If your counterpart answers and does not deny the sole fact of existence of the e-mails you refer to, this will be enough to refer to that e-mails as to the evidence, acknowledged by the other party.

The third way is to legalize the use of electronic messages in the contract. It is necessary to remember, however, than it's much easier to falsify electronic messages, than any other document. And that's when comes handy another useful instrument, which, unfortunately, is not widespread in the practice – digital signature. In theory, it eliminates any problems, connected with the status of electronic messages.

Appeal to court in the electronic form. Current Civil Procedure Code of Ukraine doesn't describe the way, how the claim should be sent to court, specifying only the written form of the claim. So the electronic form of the claim is not forbidden, but there is no established procedure for it. Technically such appeal doesn't look difficult, because e-mail technology is well-known and widely used in the world, and courts have

all the hardware to process it. All is needed – to develop software that will carry out all the cycle of claim registration in the court.

Internal workflow. Decisions, protocols, rulings and resolutions should exist in digital form and be printed only on demand. Software that is used today in courts foresees the entry of all legal documents to electronic database, but without access to it for interested persons its potential remains unused. It's a great idea to organize encrypted access to that database. That will provide both security and enable parties to monitor the state of the proceedings from any Internet access point.

External workflow. Today court summons are sent by regular mail, so notification of persons involved in case about time and place of court hearing directly depends on the postal system, which is expensive and really slow for modern media space. As a result – all the notification system is inefficient. That's why all the correspondence should be converted into digital paperless form. It's all about well-known e-mails and short message system. By the way, in the 2012 Supreme Court of the Russian Federation has allowed general courts to notify trial participants by SMS, if they agreed for such way of notification. [2]

Court orders. A typical workplace of a judge is overcrowded because of an enormous amount of appeal for court orders that judge need to process. For the first half-year of 2012 courts in Ukraine processed 200 000 applications for the issuance of court orders – that's why we need to automate all the system.

Such practice successfully developed in Germany and it generally works in such way – user goes to the court website, with a software module system chooses the form that corresponds to the actual legal relationship established between the parties, fills it in with the required content and signs with his electronic signature. That's all you need to receive the court order. In addition, these systems offer the opportunity of regular written request to the court. However, such appeals are immediately scanned and then digital processing cycle occurs.

E-court. The use of electronic communications for remote interrogation of witnesses is already used by courts, but the video technology can be used more widely. The hearing should take place in the videoconference, when each participant can be physically in different places and participate through the Internet. To organize the meeting should be use software that makes possible for all participants to see each other, communicate and work together on documents. Lawsuit can be signed by digital signature and sent by e-mail, like all other paperwork in

the case. All this suggests that the use of electronic technology for remote courts considering the value for money, speed is the most attractive way to solve business and civil disputes. This is the way, how the latest electronic technology, with appropriate legal regulation can be an effective means to create fast, cheap, efficient and accessible justice. [1]

However, while implementing the latest technology, we must remember that technical progress every day requires more high-level knowledge and skills of the person. Technologies that massively introduced into society are often ahead intellectual (and especially moral) level of social consciousness. Electronic technology justice in this sense is not an exception. It requires from persons involved in the case not only legal knowledge, but also a high level of technical literacy. Because of this, for many people the benefits of electronic proceedings may remain inaccessible, while the use of electronic technology implies that they can use all the participants in the process. Failure to provide equal access to the justice system for rich and poor, located in large cities and rural areas, would violate the principle of equality of the parties, increasing inequality, now on a technological basis. [3]

It appears that the contradiction can be solved by fixing legislative provisions on compulsory participation in electronic proceedings as a representative party professional lawyer. The presence of such legal norms will counterbalance positions parties and promote the development of competitive principle in civil proceedings, as well as attempts to establish a barrier for abuse of the right to a court or other abuse of procedural rights at trial.

Thus, the introduction of electronic technologies in the proceedings can take it to a higher level of development, create conditions for a system of case management, ensure effective communication with representatives of the parties, a continuous assessment of the system, automation of process management as a result increase the transparency and efficiency of justice and contribute to ensuring citizens' right to a fair trial.

References

1. Нове правосуддя: вперше в Україні в онлайн-відеоконференції було розглянуто позовну заяву подану електронною поштою [Електронний ресурс] Українська Третейська Спілка. — URL : <http://sud-ua.com/2009/12/29/nove-prvosuddya>.

2. О внесении изменений в некоторые постановления Пленума : постановление Пленума Верховного Суда Российской Федерации от 09.02.2012 г.

3. Файзутдинов И. Ш., Ярков В. В. Использование новых информационных технологий в арбитражном процессе и при осуществлении нотариальной деятельности – Материалы международного семинара (7-8 сентября 2006 года, г. Екатеринбург). – Под ред. Файзутдинова И. Ш., Яркова В. В. – М.: ФРПК, 2007. – С.103.

УДК 519.2=111

ENTROPY PROPERTIES OF DISTRIBUTIONS WITH DENSITIES THAT ARE ATOMIC FUNCTIONS

L. V. Kir'yanova, Ph.D. of mathematics, Associate Professor
Moscow State University of Civil Engineering,
K. I. Kabanov, Senior Lecturer
V.V. Podrezenko, Senior Lecturer
Kharkiv National Automobile And Highway University

Abstract. In this paper we consider the problem of the characterization of the distributions of atomic type by the properties of entropy.

Key words: random variable, characteristic function, entropy.

ЕНТРОПІЙНІ ВЛАСТИВОСТІ РОЗПОДІЛІВ З ЦІЛЬНОСТЯМИ, ЩО Є АТОМАРНИМИ ФУНКЦІЯМИ.

Л. В. Кір'янова, канд. фіз.-мат. наук, доцент
Московський державний будівельний університет
К. І. Кабанов, старший викладач,
В.В. Подрезенко, старший викладач
Харківський національний автомобільно-дорожній університет

Анотація. У роботі розглядається проблема характеризації розподілів типу атомарних функцій властивостями ентропії.

Ключові слова: випадкова величина, характеристична функція, ентропія.

In many statistical problems, than the researcher has very little information about a random variable one should choose classes of