

JUDIT GYARMATHY

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS



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DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

JUDIT GYARMATHY

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I. Introduction

I.1. Subject and aim of the monograph

At the end of the 20th century and the beginning of the 21st century, the explosive development of digitalisation transformed our daily lives, affecting simple activities such as reading, writing, note-taking, language learning and shopping, but has also affected our institutions that have traditionally operated for centuries – including the courts. As a natural consequence of this, information technology has emerged in the field of law: on the one hand, we must manage an ever-increasing volume of digital data, navigate within it and analyse it (it is no coincidence that the term ‘big data’¹ has now been superseded by ‘artificial intelligence’, and more recently by the buzzword ‘machine learning’²). Due to the digitisation of processes, regulation must be adapted accordingly; information technology is now a defining feature throughout the diverse legal system.³ In connection with the progress of digitalisation, it was already suggested years ago that massification would result in the spread and intensification of standardisation, leading to the traditional legal culture being pushed into the background. There is no doubt that in a world of standardised forms and automated company registration, legal ‘subtleties’ – such as the distinction between the mandatory and discretionary nature of company law rules and the legal scholarship debate surrounding this – can easily be pushed into the background.⁴ At the same time, efforts must be made to ensure that, whilst promoting the competitiveness of the economy, the law also meets the requirements of legal competi-

1 Zsolt ZŐDI: Law and Legal Science in the Age of Big Data. *State and Legal Science*, 2017/1. (hereinafter: ZŐDI 2017.) pp. 95–114.

2 Zsolt ZŐDI: *Platform Law*. National University of Public Service, Ludovika University Press, 2023. p. 8.

3 For further details, see: Zsolt ZŐDI: The impact of digitalisation on the legal profession. *Economy and Law*, 2018/12, pp. 3–9; Lea PÖDÖR: Towards online courts: Theories and solutions at the dawn of a new technological era. In: Judit Glavanits; Tamás Szabó (eds.) *Vulnerable groups in the digital world: Legislative and judicial challenges of digitalisation*. Universitas-Győr Nonprofit Kft. Győr, 2024. (hereinafter: PÖDÖR) pp. 35–54.

4 Tamás SÁRKÖZY: Innovation in Law. In: Klára Gellén (ed.): *Law, Innovation, Competitiveness*. Wolters Kluwer, 2017. p. 16.

tiveness: within a stable, transparent and predictable legal environment, it must also be capable of responding flexibly to new challenges and day-to-day changes.⁵ Similarly, as a result of changes in the economic and social environment, the courts are also facing new challenges, both in terms of the emergence of ever-new types of cases,⁶ and in relation to the continuous development of information technology within the framework of access to justice.

The EU Justice Scoreboard⁷ clearly demonstrates that indicators reflecting the level of development of information and communication technology in the courts play a key role in the assessment of Member States' judicial systems. There is a growing need for modernisation in this area too, as a high level of provision of IT equipment is no longer sufficient in itself; active use of the latest technologies is also desirable. In other words, whilst twenty years ago it was considered a novelty that decisions, cases and the submissions received therein were drafted on computers rather than typewriters, and that the resulting documents could be filed and recorded in an electronic database. This was followed by the introduction of electronic communication between courts, clients and authorities, and, as the next step, the e-file, which is accessible online at any time. Through the realisation of the digital court,

5 László TRÓCSÁNYI: Legal Competitiveness in the Light of Economic and Technical Development. In: Klára Gellén (ed.): *Law, Innovation, Competitiveness*. Wolters Kluwer Kft. Budapest, 2017. pp. 23–24; Csaba NÉMETH: Procedural and constitutional aspects of digital court hearings in civil proceedings. Proposals for the introduction of digital court hearings in Hungary. *Magyar Jog*, 2021/2, pp. 76–85.

6 For a detailed discussion of certain specific areas affected by modern technologies, see: Ádám BOÓC: *Technological challenges in civil law, with particular regard to inheritance law*. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Science. Budapest, 2018, pp. 25–38; Ádám BOÓC: The most important technological legal issues in property law, the law of new technologies and property law. In: Árpád Olivér Homicskó (ed.): *The impact of digitalisation on specific areas of law*. Károli Gáspár Reformed University, Faculty of Law and Political Science. Budapest, 2020. pp. 25–39, Sándor UDVARY: The legal regulation of non-human agents (intelligent systems) – robots, dedicated systems (self-driving cars). In: Árpád Olivér Homicskó (ed.): *The impact of digitalisation on specific areas of law*. Károli Gáspár University of the Reformed Church, Faculty of Political Science and Law. Budapest, 2020. pp. 239–256. Tamás PARTI: *The Adaptation of Ownership of Digital Data in Light of the Property Law Interactions of Digital Assets*. PhD thesis. Károli Gáspár Reformed University, Doctoral School of Political Science and Law. Budapest, 2023.

7 EU Justice Scoreboards 2013–2024. (translated by the author).
https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/eu-justice-scoreboard_hu Downloaded: 10 September 2024.

we have become familiar with remote hearings, and a significant proportion of judgments have been organised into an anonymised database at, which is searchable by anyone and available online free of charge. Simplified electronic attendance may already be on the horizon, and in the near future, minutes produced via video and audio recording in the courtroom could become widespread and replace the written format. As a next step – as the data analysed in the EU scoreboard also reveals – the use of artificial intelligence applications and shared accounting technologies to carry out core activities in courts will come to the fore.⁸ Progress is therefore ongoing, and it has become clear today that law and information technology will continue to influence one another and play an increasingly significant role in this field.

Particularly interesting is the impact of the interaction, close relationship and coexistence of law and information technology on technical language: due to digitalisation, it is necessary to be able to interpret, algorithmise and decode text using machine-based methods into the binary number system (numbers 0 and 1), which poses a significant challenge in the drafting of legal texts;⁹ this field is now the subject of increasing interdisciplinary research.¹⁰ Indeed, the European Union's 2020 Justice Scoreboard included the requirement for the production of machine-readable court decisions as a new element among the areas examined. In the field of machine-readable judgments – as is the case in roughly half of the Member States – there are still numerous tasks awaiting resolution in Hungary.¹¹ This also points to one possible direction for future development.

8 EU Justice Scoreboard 2024, p. 36, Table 44 (translated by the author).

https://commission.europa.eu/document/download/84aa3726-82d7-4401-98c1-fee04a7d2dd6_en?filename=2024%20EU%20Justice%20Scoreboard.pdf Downloaded: 10 September 2024.

9 Zsolt ZÓDI: *Legal databases and legal research. Machines in law*. PhD thesis. Pécs, 2011, p. 65; Péter DARÁK: The challenges of digitalisation in law-making and law enforcement. In: Péter Darák (ed.) *Digitalisation and communication in taxation: studies based on the proceedings of the 13th International Tax Conference 'Taxation in Europe'*. Penta Unió. Budapest, 2019, pp. 9–15.

10 This was highlighted by Edina VINNAI: *On the borderline between law and language*. Gondolat Publishing House. Budapest, 2017. pp. 129–130.

11 EU Justice Scoreboard 2024, p. 27, Table 29 (translated by the author).

https://commission.europa.eu/document/download/5d446342-8598-42d2-928a-1e1ae-5fe567c_en?filename=justice_scoreboard_2020_en.pdf&prefLang=hu. Downloaded: 10 September 2024.

In this monograph, I examine the path towards the digital court, its milestones and challenges. By the term ‘digital court’ – in line with Hungarian legal literature¹² – I mean the electronic accessibility of courts and court documents. This includes the establishment of electronic communication channels and the option to pay court fees, and consequently the availability of case files (e-files) that can be accessed electronically and online from a distance, as well as the establishment and availability of networks capable of simultaneously transmitting video and audio. In contrast, the term ‘online court’ refers to a different concept, primarily supporting the resolution of private law disputes (the aim of which is mostly the rapid, online resolution of minor disputes arising in global e-commerce, such as on eBay, Vint-ed)¹³ and the internet court – currently widespread in China – which makes extensive use of artificial intelligence to channel court disputes online.¹⁴ A detailed presentation and analysis of the latter two institutions would go beyond the scope of this monograph, so I shall not discuss them in detail.

Development and progress in this field are also ongoing, but at the same time we must not forget that development must serve humanity.¹⁵ In the words of Nándor Birher – given that the achievements of the modern age can now transform our environment and the human way of life in a very short time – technical optimisation must be brought into harmony with hu-

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- 12 Imre VARGA: The enforcement of the right of access to the courts in the light of the digital court programme. In: Mário Certicky (ed.): *Innovative private law solutions in the service of socio-economic progress*. Association of Private Law Lecturers. Szeged, 2020. pp. 29–30. András OSZTOVITS: The right to a fair trial in the digital age. In: Tóth J. Zoltán (ed.): *The right to a fair trial*. Wolters Kluwer Hungary Kft. Budapest, 2021. (hereinafter: OSZTOVITS 2021.) pp. 254–255. GYARMATHY Judit: The digitisation of the courts in Hungary. From the early stages of the court IT system towards digitalisation. Part I. *Magyar Jog*, 2025/2. (hereinafter: GYARMATHY 2025.) pp. 68–69.
 - 13 SUSSKIND, Richard: *Online Courts and the Future of Justice*. Oxford University Press, 2019. OSZTOVITS 2021, op. cit., pp. 255–258. PÁLFI Dóra: Online dispute resolution – existing models on the market and possible paths to ‘nationalisation’. In: Zsolt Zödi (ed.): *Legal Technologies. Digital Law Enforcement*, Ludovika University Press. Budapest, 2022, pp. 157–183.
 - 14 SHANG, Carrie Shu – GUO, Wenli: Towards Online Dispute Resolution – Led Justice in China (The Rise of Online Dispute Resolution in the Chinese Justice System – translated by the author). *International Journal of Law and Information Technology*, 2020/2, pp. 130–132; OSZTOVITS 2021, op. cit., pp. 258–261; PÖDÖR, op. cit., pp. 41–46.
 - 15 For an analysis of the image of humanity that emerges from the provisions of the Hungarian Civil Code, see: Zoltán CSEHI: The image of humanity in the Civil Code. An anthropological approach to Act V of 2013. *Iustum Aequum Salutare*, 2025/1, pp. 9–21.

manisation. Consequently, whilst increasing the effectiveness of regulation, attention must also be paid to the preservation of human and ideal values,¹⁶ which poses an ever-greater challenge as technical optimisation intensifies.

I.2. Structure and sources of the monograph

The focus of this paper is on examining the impact of the achievements of digitalisation on the fundamental interrelationships of litigation. Fundamentally, I seek to answer the question of how the new rules of civil procedure, in conjunction with the achievements of digitalisation, serve the efficiency of litigation, and also whether digitalisation can play a role in supporting the completion of proceedings within a reasonable timeframe.

I outline the process of domestic digitalisation initiatives and their regulation, which were completed by the end of 2019 with the introduction of the e-file, by which time the provision of IT equipment to judges had also become almost complete, through the procurement of innovative mobile devices and office software packages. At that point, all the conditions were in place for the judicial system to continue on the path of digitalisation, building on the developments already achieved, when the Covid-19 pandemic caused by the virus struck, and in this new situation, the courts had to maintain their operational capacity whilst keeping face-to-face contact to a minimum. I shall also discuss later how the achievements of digitalisation – enabling remote working and online access for the parties – could be utilised in civil proceedings by the Supreme Court, the highest judicial body, during its emergency operations, so that this forum could fulfil its constitutional duties. The reason for a closer examination of the Curia is that, from mid-2020,¹⁷ this forum simultaneously handled first-, second- and third-in-

16 Nándor BIRHER: The shaping of other legal systems in the context of modern technological regulation, in parallel with legislation. In: Árpád Olivér Homicskó (ed.): *Technological challenges in specific areas of law*. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Science. Budapest, 2018. pp. 21–22, and see also: Nándor BIRHER: Changes in the regulation of modern technologies: *theoria versus praxis, ethics versus protocol*. In: Árpád Olivér Homicskó (ed.): *The impact of digitalisation on specific areas of law*. Károli Gáspár University of the Reformed Church, Faculty of Political Science and Law. Budapest, 2020. pp. 11–23.

17 See: Act CXXVII of 2019 on the amendment of certain acts in connection with the establishment of single-tier district administrative procedures (hereinafter: *Ejhtv.*)

stance adjudication, as well as review proceedings; consequently, the digital systems operating there had to meet requirements applicable to all levels of the court system. Proceedings before the often very large panels¹⁸ presented a challenge in themselves: panel members had to view the same content in the electronic file and work collaboratively on the same document via secure remote access. Moreover, the highest court was primarily staffed by a generation not closely associated with digitalisation, which posed a further challenge in terms of introducing and applying new methods.

Having reviewed the development of the digital court and analysed its application in an emergency situation, it was also worth examining where the level of digitalisation in Hungary stands in an international comparison with other European states. Using primary information available from the Council of Europe and European Union organisations, I examine the level of digitalisation in the periods before and after the virus outbreak, seeking to draw lessons and mapping out the obligations and opportunities of the period ahead.

Finally, I analyse the findings of an empirical study conducted among judges serving at the Supreme Court in relation to the digitisation of the courts. As part of this, I analyse the results of a questionnaire survey and semi-structured face-to-face interviews, which were conducted using a purely qualitative methodology. Through this empirical research, I aim to validate and substantiate the research findings obtained using other research methods, which will be presented in the monograph. The selection of the group of individuals involved in the study was a conscious decision on my part: I undertook a more limited study, covering only the Supreme Court and not the entire judicial system, because surveying the entire judiciary would constitute a research project significantly exceeding the scope of this monograph.

The complexity of the book's subject matter also confirms that an ancient (and fundamentally conservative) institution such as the judiciary faces se-

18 Within the chambers of the Supreme Court, there are three- and five-member panels. The Council for the Uniformity of Law, which initially had nine members and will have 41 from 1 June 2023, operates through two 21-member sub-councils, which – in the event of a request for a preliminary ruling – may decide to hear the case with the addition of the Supreme Court judges from the relevant panel or to refer it to the full bench of the Supreme Court [Section 35, Section 41/A(1) of the Act].

rious challenges in the context of digitalisation: it must continually adapt to a changing world, whilst – in a world marked by the rise of social media, artificial intelligence, the rise of blockchain technology – it must maintain public trust and its authority in the 21st century.¹⁹

In selecting the subject matter of this paper, choosing the necessary sources and processing them, I have endeavoured to apply appropriate academic methods and to draw upon the experiences of legal schools of thought relevant to the subject. Due to the multidisciplinary nature of the subject matter indicated in the title, I had to keep abreast of the latest developments in legal informatics and those experiences in scientific methodology which, within this relatively new field of knowledge, have become the subject of scholarly analysis in the context of legislative and, in particular, judicial application of the law. In this respect, I have endeavoured to apply a legal perspective, as the monograph is fundamentally based on legal science and the subject of the enforcement of law. In preparing the questionnaire-based data survey aimed at uncovering reality, determining the appropriate sampling and analysing the data, I paid attention to the requirements of the sociological methodology of empirical studies.

In reviewing the domestic situation regarding the digitisation of the courts, I endeavoured to consciously apply the comparative legal method amongst the various scientific methodological approaches. As the international roots and connections of my subject matter are of fundamental importance to the development of domestic theory and legal practice, I endeavoured to track the relevant findings of key countries and regional legal cultures, as well as their domestic impacts, in line with the subject matter. I have incorporated comparative findings into the analysis of individual legal institutions, as this provided a better opportunity to present foreign solutions and track their impact in Hungary.

19 For aspects of the administration of justice that have a decisive influence on the establishment or loss of public trust – from the perspective of civil procedure law – see: Imre SZABÓ: Public Law – Private Law – Public Trust: On the Margins of a Legislative Amendment. In: Péter Kruzslicz – Márton Sulyok – Anikó Szalai (eds.): *Liber Amicorum László Trócsányi. A collection of essays on the occasion of László Trócsányi's 65th birthday*. University of Szeged, Faculty of Law, Institute of International and Regional Studies. Szeged, 2021. (hereinafter: SZABÓ) pp. 175–183.

Due to the specific nature of the volume's subject matter, it was necessary to focus on a concentrated examination of a uniquely new sub-field of judicial administration that lacks tradition. In this regard, I followed the guidelines of the focal legal methodology – which is playing an increasingly important role in Hungarian legal scholarship as well.²⁰ Accordingly – in terms of determining the structure of the work, organising the content units within the chapters and interpreting legal terminology – I focused on questions relevant to the subject matter (title), despite the fact that numerous sub-issues of greater importance from other perspectives could have been examined and the concepts associated with them analysed.

It follows from the choice of subject matter itself that countless areas may be affected within this wide-ranging field; however, it is not the aim of this monograph to analyse the emergence of digitalisation in other areas of law. Nor do I examine the impact of the duration of proceedings on efficiency, as a detailed analysis of the conditions for well-founded adjudication could, given its complexity, wide-ranging nature and significance, constitute the subject of a separate work in its own right.

This monograph was compiled using a significant number of foreign-language sources. In exploring the content of legal technical terms related to digitalisation and those of recent origin, I was aided by the traditional (grammatical, systematic, logical and historical) methods of the normative school of jurisprudence; but – in the case of the sources I translated – I often had to resort to paraphrasing the content or using linguistic neologisms. I endeavoured to draw upon the widest possible range of domestic and international specialist literature relevant to the topic. My aim was to present the questions and problems arising in connection with the topic in detail, as well as to formulate possible solutions to them. Among my sources, primary importance was given to books, monographs and doctoral theses related to the topic, as well as studies and publications appearing in academic journals. In addition, I placed great emphasis on analysing the relevant legislation, legal commentaries and official documents.

20 László BLUTMAN: A focal analysis of legal terms: an ancient message in a bottle? *Journal of Legal Theory*, 2010/3. pp. 1–50.

A particular challenge for me in addressing this topic was presenting the process and history of court digitisation in Hungary, as there are still few available sources in this area due to a lack of theoretical analysis.²¹ Similarly, the background to the development of new legal institutions introduced in recent years – such as simplified telecommunications attendance or video and audio recording in courtrooms – and the process by which they built upon earlier developments have also proved to be a largely unexplored area. I have sought to address these topics through my own research, analysing primary sources and professional reports.

In this monograph, I have paid particular attention to the previous and current regulations of the Code of Civil Procedure. I considered it important, when analysing the concept of the new Civil Procedure Code, the draft bill, the explanatory memorandum of its proposers and the related commentaries, as well as the detailed regulations concerning emergency situations, to examine the multi-layered legislative process in order to gain a comprehensive picture of the legislative process and the reasons behind the regulations. When analysing the text of previous legislation, I also employed the comparative law method, which enabled me to place Hungarian legislation within an international context.

With regard to international surveys and statistical data, I primarily used publicly available databases. Based on these, and in line with the focus of the research, I carried out qualitative and quantitative analyses, from which I was able to draw relevant conclusions. When examining digitisation processes, I also reviewed and analysed numerous foreign academic sources, and I applied the comparative law method when analysing international examples.

Overall, I endeavoured to explore the findings of the literature to date from as many perspectives as possible and using the widest variety of sources, to interpret the relevant international and domestic legal norms, analyse practical experience in this field, and thereby contribute to a deeper understanding of and future development of the processes of court digitisation in Hungary.

21 There were also instances where the verification of the cited fact – due to its nature and lack of theoretical elaboration – was based not on a scholarly work but on other online sources, for example, footnotes 172, 188, 292, 316 and 438.

I.3. The hypotheses examined in the monograph

The monograph focuses on the examination of three interrelated – and partly interdependent – hypotheses. According to the first hypothesis, digitalisation developments increase the resilience of the courts, which has a significant impact on the framework for conducting civil proceedings, whilst also supporting the courts' ability to deliver higher-quality judgments. International research shows that courts in other European countries also faced significant operational difficulties during the pandemic,²² and therefore – although it may be argued that the positive impact of digitalisation can be regarded as self-evident – it was necessary to examine, from a theoretical perspective, the issue of the operational capacity of Hungarian courts during this critical period.

The second hypothesis was that the solutions implemented so far in the digitisation of the courts help to ensure the effectiveness of litigation, which is a fundamental principle in civil procedure law and is reflected at a systemic level. This hypothesis also appears self-evident, but it may be justified to verify it through measurements. There are, however, several factors that speak against this self-evident nature. On the one hand, there are technical and infrastructural problems, namely that courts do not always have the appropriate tools and infrastructure to conduct digital proceedings, which limits the effective use of electronic systems. Secondly, professional concerns may arise; that is, judges, representatives of other legal professions or clients may raise the issue that these solutions could jeopardise the principles of the administration of justice, such as the right to a fair trial or the

22 See: SOURDIN, Tania – LI, Bin – MCNAMARA, Donna Marie: Court innovations and access to justice in times of crisis (translated by the author). *Health Policy and Technology*, Volume 9, Issue 4, December 2020, pp. 447–453, and KRONBLAD, Charlotta – PREGMARK, Johanna Envall: When digitalisation hits the court: Strategising to turn turbulence into opportunities. *Journal of Professions and Organization*, Volume 12, Issue 1, February 2025. (hereinafter: KRONBLAD) pp. 1–14. Furthermore, the World Bank's 2020–21 DECIG (Development Economics Indicators Group) specialised data collection found that, as of 1 May 2020, judicial services had to be suspended in 81 of the 120 economies monitored due to public health measures: World Bank Group, Global Indicators Briefs No. 25, 22 December 2023, p. 2, <https://documents1.worldbank.org/curated/en/099825001082425972/pdf/IDU-1f91ae60616eb614fd61866c1278bcc8c700e.pdf>. Downloaded: 19 September 2024.

principle of directness.²³ Thirdly, there may be sociological resistance, as those involved (judges, clients) are not always prepared to use digital technologies, which slows down acceptance and adaptation.²⁴

Finally, I propose that if the hypotheses set out in the first and second points are confirmed, further development of digitalisation achievements is necessary to maintain them. This is not merely a matter of maintaining the existing computer ('hardware') infrastructure and the 'software' developed through these improvements. We must also keep pace with further digital developments affecting the entire state administration [such as the provisions of Act CIII of 2023 on the digital state and certain rules governing the provision of digital services (hereinafter: the DAP Act)], and ensure continuous compatibility and interoperability with them. Failing this, the advantages previously gained in the field of digitalisation could easily be lost.

23 Ágnes CZINE: *Fair trial. Audiatur et altera pars*. HVG-ORAC Lap- és Könyvkiadó Kft. Budapest, 2020. (hereinafter: CZINE), OSZTOVITS 2021, op. cit.: pp. 253–266, PÖDÖR, op. cit.: pp. 46–50, HARSÁGI, Viktória: Digital transformation of court proceedings, artificial intelligence and the principles of civil procedure (translated by the author). *Pázmány Law Review*, Vol. XI, 2024. Pázmány Péter Catholic University. Budapest, 2024. (hereinafter: HARSÁGI) pp. 10–11.

24 Csaba NÉMETH: Procedural and constitutional aspects of digital court hearings in civil proceedings – Proposals for the introduction of digital court hearings in Hungary. *Economy and Law*, 2021/2. (hereinafter: NÉMETH), pp. 1–2; HARSÁGI, op. cit.: pp. 11–12.

II. The rules on commencing proceedings under the new Code of Civil Procedure in the service of procedural efficiency

Before presenting the achievements of digitalisation in more detail, it is necessary to examine how the new rules of the Code of Civil Procedure, in the context of the achievements of digitalisation – primarily with regard to litigation – serve the efficiency of proceedings, and whether digitalisation can play a role in supporting the conclusion of proceedings within a reasonable timeframe. It is important to highlight and bear in mind Imre Szabó's observation: the guiding principle of the Code of Civil Procedure is to ensure procedural efficiency at a systemic level; in other words, the regulation itself must guarantee the concentration of proceedings and prevent litigious behaviour.²⁵

II.1. The most important regulatory innovations and the fundamental criteria for their definition

II.1.1. Reasons for the reform of the legislation and the legislator's objectives

Before presenting the conceptual innovations of the Code of Civil Procedure, it is worth taking a brief look at the experiences arising from the application of Act III of 1952 on the Code of Civil Procedure (hereinafter: the 1952 Code of Civil Procedure), and at the phenomena that influenced the drafting of the new code.

25 Imre SZABÓ: Expertise and liability. *Journal of Legal Science*, 2017/9, pp. 373, 385; Nárcisz PROJCS: Civil litigation in the age of digitalisation. In: Zsolt Bujtár – Zsolt Gáspár – Csaba Szilovics – Botond Breszkovics – Barnabás Ferencz – Szilvia Ázsoth – Alexander Roland Szívós – Márton Martin (eds.): *FINTECH – DEFI – Economic and Legal Opportunities and Risks of Crypto-Assets: Conference Proceedings – Selected Studies*. University of Pécs, Faculty of Law and Political Sciences. Pécs, 2022. (hereinafter: PROJCS) pp. 114–129.

According to Zsuzsa Wopera²⁶, the measure of a procedural code's modernity lies in its ability to respond appropriately, at the level of legal regulation, to the social and economic conditions from which legal disputes arise, the effective and focused adjudication of which takes place within the framework of the procedural code.²⁷ During the preparation of the new Code of Civil Procedure, there was no dispute that the 1952 Code of Civil Procedure – despite the different rules introduced from the mid-1990s for cases deviating from the general rule²⁸ – cannot respond with sufficient efficiency to the times for several reasons, owning notably the uniform trial system, it is unable to respond with sufficient efficiency to the challenges of modern times, particularly in legal disputes raising complex legal issues.

Numerous findings in the specialist literature have also made it clear that, by the 21st century, the 1952 Code of Civil Procedure was no longer well-suited to facilitating the conclusion of litigation within the framework of due process; its operational difficulties were also reflected in the exceptionally large number of legislative amendments, primarily aimed at speeding up proceedings. The primary problem identified in relation to the administration of justice in civil matters was the protracted nature of litigation; in this context, Imre Szabó points out that procedural law may be only one of the causes.²⁹ In his interpretation, the decline in trust in the administration of justice was caused by two further phenomena that rendered the outcome of lawsuits uncertain: so-called 'surprise judgements', and the divergent interpretations of judicial rulings and expert opinions. He attributes this to the fact that, during the long duration of the proceedings, the debtors in 'chain debt' cases often 'drained' the company

26 As Ministerial Commissioner, Zsuzsa Wopera performed numerous tasks in connection with the preparation of the codification of the Civil Procedure Code and the monitoring of its entry into force; these include – without claiming to be exhaustive – the 6/2014. (3 September) IM, 6/2015. (4 March) IM and 8/2018. (25 May) IM.

27 Zsuzsa WOPERA: The Theoretical Foundations of the New Code of Civil Procedure. *Journal of Legal Science* 2017/4. (hereinafter: WOPERA 2017.), pp. 153.

28 Examples of this included the rules aimed at speeding up proceedings in Act LX of 1995 amending Act III of 1952 on the Code of Civil Procedure, and later the special procedural regimes introduced in small claims and high-profile cases, which deviated from the general rules and were also aimed at speeding up proceedings.

29 Based on Imre Szabó's summary, several authors have identified the following as causes of the protracted nature of litigation: a) the court system, b) the conduct of judges, c) the conduct of the litigants, d) the conduct of the litigants' representatives, e) the conduct of interveners, f) procedural law. See: SZABÓ, op. cit.: pp. 177–178.

of its assets, and by the time enforcement could have taken place on the basis of a final judgment, there was nothing left from which to recover the debt.³⁰ The minor legislative amendments adopted in the years following the turn of the millennium did little to resolve this situation; these amendments introduced various procedural regimes into the Code of Civil Procedure, which had previously been largely uniform.³¹ According to the literature, trust and confidence in courts was also jeopardised by the frequency and practice of repeals.³²

Government Decree No. 1267/2013. (17 May) on the codification of civil procedure law (hereinafter: Government Decree) was the first significant step towards the reform of civil procedure law. One of the objectives set out therein was that the new Code of Civil Procedure should regulate procedural matters in a clear and coherent manner, taking into account technological advances, thereby facilitating the situation of citizens seeking justice and the professional community.³³

The reasons for the comprehensive reform of the legislation – which also touch upon the subject of this monograph – as set out in the Concept for the New Code of Civil Procedure³⁴ (hereinafter: Concept), adopted by the Government at its meeting on 14 January 2015, were as follows.

30 SZABÓ, op. cit.: p. 178.

31 See: small claims and high-value claims: Zsuzsanna FEKETE: The past, present and future of the rules governing small claims in Hungary in the light of procedural efficiency. *Procedural Law Review*, 2017/1, pp. 58–66, Gabriella LIPTÁK-VIDA: Special rules for small claims and cases of particular importance in civil procedure law. *Debrecen Law Workshop*, 2014/1–2.

32 SZABÓ, op. cit.: p. 178. On the effects of the 1952 amendments to the Civil Procedure Act that hinder the conclusion of proceedings, see also: Imre SZABÓ: Experiments in procedural law to expedite the enforcement of claims. In Márió Certicky (ed.): *Innovative private law solutions in the service of socio-economic progress*. Association of Private Law Lecturers. Szeged, 2020. pp. 13–19; Gergely CZOBOLY: *Procedural tools for preventing the prolongation of litigation*. PhD thesis. Doctoral School of the Faculty of Law and Political Sciences, University of Pécs. Pécs, 2014, and Gergely CZOBOLY: The Prolongation of Civil Proceedings. In: András Jakab – György Gajduschek (eds.): *The State of the Hungarian Legal System*. Hungarian Academy of Sciences Centre for Social Sciences, Institute of Legal Studies. Budapest, 2016. pp. 758–776.

33 Government Decree No. 1267/2013 (17 May) on the codification of civil procedure law. Introduction.

34 The Concept of the New Code of Civil Procedure – The Concept adopted at the Government's meeting held on 14 January 2015 (hereinafter: the Concept).

<https://2015-2019.kormany.hu/download/6/42/40000/20150224%20PP%20koncepti%C3%B3.pdf#!DocumentBrowse>

Downloaded: 5 September 2024

As more than half a century has passed since the 1952 Civil Procedure Code came into force, it has been amended on numerous occasions – nearly a hundred times since the change of regime alone – resulting in inconsistencies and incoherencies in the text of the legislation. Furthermore, the amendments have mostly had an unidirectional effect, aiming to reduce time limits, which have proven insufficient for increasing the efficiency of proceedings, and in particular for ensuring compliance with the requirement that proceedings be concluded within a reasonable time. To this end, a systemic overhaul of the civil procedure code appeared necessary, which can only be achieved through the enactment of a new law.³⁵

As set out in the Concept, on the other hand, the period preceding it saw a complete review of the regulatory framework providing the public law foundations of the administration of justice: the National Assembly adopted the Fundamental Law of Hungary, Act CLXI of 2011 on the Organisation and Administration of the Courts (hereinafter: Courts Act), Act CLXII of 2011 on the legal status and remuneration of judges (Judges Act), and the applicable substantive civil law was renewed with the entry into force of Act V of 2013 on the Civil Code (hereinafter: Ptk.). The next conceptual step leading to the full reform of the civil justice system – they added – could be the enactment of a new Civil Procedure Act.

In the context of the monograph's subject matter, it is of paramount importance to note that one of the most significant expectations on the part of litigants regarding the administration of justice as a service – based on domestic and international standards, and also in the interests of maintaining the continuous and predictable functioning of society and economic life – is that, within the framework of a fair trial and within a reasonable time.³⁶ Incidentally, preventing the protracted nature of litigation has been an important consideration in procedural law-making since the early 20th century; this principle continues to permeate the legislation to this day and – particularly since our accession to the European Convention on Human Rights – has prompted the legislature to take continuous action.³⁷

³⁵ Concept, p. 2.

³⁶ Concept p. 3.

³⁷ Sándor UDVARY: New Pp. – New Procedural Structure. *Advocat*, 2017/1-2. (hereinafter: UD-VARY 2017.) pp. 6–7.

As Zsuzsa Wopera pointed out when outlining the fundamental principles of Act CXXX of 2016 on the Code of Civil Procedure (hereinafter: CCP), the new procedural law builds upon and further develops Hungarian procedural traditions, adapting them to the demands of the modern age. A good example of this is the introduction of the main hearing model of the split-trial structure, which is also used abroad, as well as the provision for the use of the latest technical tools. Furthermore, the international expectations set out in the Government Decision – the principles of which must be reflected in the new procedural provisions – primarily refer to the standards, recommendations and case law of the European Union and the Council of Europe. Of these, particular mention should be made of Recommendation (84) 5 of the Committee of Ministers of the Council of Europe, adopted on 28 February 1984, on guidelines for civil procedure to facilitate the functioning of the administration of justice, and the 2006 summary – based on the aforementioned recommendation – by the Council of Europe’s European Commission for the Efficiency of Justice³⁸ (hereinafter: CEPEJ). In the latter, the CEPEJ summarised the so-called ‘good practices’ ensuring the timeliness of court proceedings and their conclusion within a reasonable time.³⁹

One example is Recommendation No. R (84) 5 on guidelines of civil procedure law facilitating the functioning of the administration of justice (adopted by the Committee of Ministers on 28 February 1984 at the 367th meeting of the Ministers’ Deputies), Principle 1, paragraph 1. Accordingly, ‘Under normal circumstances, the proceedings should be concluded within a maximum of two hearings: the first may be a preparatory hearing, and the second should involve the taking of evidence, the parties’ submissions and, if possible, the delivery of the judgment. The judge must ensure that all acts necessary for the second hearing are carried out in good time; in principle, any postponement is prohibited, except where new facts or other extraordinary and important circumstances arise.”

From the perspective of the monograph’s subject matter, Principle 9 is particularly significant, as it also attests to the fact that even at this time there was a strong demand for the use of technological advances in the ad-

³⁸ See in detail in section V.1.

³⁹ WOPERA 2017, op. cit., p. 154.

ministration of justice: “The most modern technical equipment must be made available to the judicial authorities so that judgments may be delivered under the most efficient conditions, in particular by facilitating access to various sources of law and by speeding up the administration of justice.”

The role of digital tools is also highlighted in the CEPEJ’s summary, which states that audio and video conferencing can save both courts and parties time and money. Furthermore, the use of information and communication technology in the administration of justice can enhance its efficiency. Successful cases demonstrate the positive outcomes that can be achieved by automating highly repetitive tasks. The timeliness of litigation can also be improved through the use of the internet, which facilitates the exchange of data and information between courts and parties.⁴⁰

In light of the above, it is hardly surprising that, according to the Concept, particular attention must be paid during the codification of civil procedure law to how new technological solutions can best help achieve the desired objective of speeding up proceedings, without undermining procedural safeguards.⁴¹ The key means of achieving this objective is the correct application of IT solutions, which offers the opportunity – amongst other things – to speed up communication between the court and the parties; to speed up communication between the court and the authorities, as well as with other courts; and to make the organisation of court work more efficient. Furthermore, appropriate case management systems can help to ensure that tasks can be effectively shared within a procedure; and to reduce the time the presiding judge must devote to a case, in that the IT tools provided to them assist in obtaining the information necessary for decision-making.⁴² This is why the digitisation of proceedings and certain procedural stages has become a primary legislative objective, in which electronic communication

40 Summary of ‘best practices’ on time management in judicial proceedings, CEPEJ, 8 December 2006. (translated by the author). Compendium of ‘best practices’ on time management of judicial proceedings. 4.10. https://rm.coe.int/16807473ab#_Toc153700523

Downloaded: 5 September 2024.

41 See also in this context: Zita PÁKOZDI: Technology and the human factor – a selection from the revised provisions of the Civil Procedure Code. In: Márió Certicky (ed.): *Innovative private law solutions in the service of socio-economic progress*. Association of Private Law Lecturers. Szeged, 2020. pp. 7–12.

42 Concept, pp. 18–19 .

must be given greater scope, as procedural law has not responded adequately to the IT revolution of recent decades, and electronic communication can be better utilised, particularly in the context of case preparation.⁴³

According to the Concept, the use of IT tools is widespread in non-contentious civil proceedings, where IT systems have been developed that not only facilitate electronic communication but also assist the court (notary, bailiff) in its internal administration. By their very nature, these are particularly well-suited to digitisation, as they can essentially be handled in writing and the applications can be standardised; thus, so-called smart forms can be created, which can be transmitted electronically via the chosen IT channel, and the IT systems established for this purpose are capable of processing them.⁴⁴ It must also be examined, however, how and in what way IT can effectively assist proceedings in civil litigation, where oral proceedings and directness are expected, legal disputes are diverse, and decisions are consequently unique.⁴⁵

Consequently, the following benefits of digitisation were identified in the Concept.

The advantage of electronic written communication is that it is fast (essentially instantaneous), acknowledgement of receipt is immediate, it is cost-effective, it is immediately available to the addressee electronically, IT systems can be developed which perform administrative and document management tasks regarding incoming correspondence on the part of both the court and the parties, and, in addition to written materials, it is also possible to transmit audio and video materials.

The advantage of electronic oral communication is that geographical distance becomes irrelevant, the time required to travel to the court building is eliminated, the ability to hold court hearings is not dependent on the court's hearing capacity, and in special circumstances, it can enhance the efficiency of proceedings (e.g. a child can be heard in a child-friendly environment, and whilst their testimony is clear to the court, they can be shielded from the potentially tense atmosphere of the courtroom).

43 Concept, p. 58.

44 For two examples of this – electronic company registration and payment order cases – see section III.3.

45 Concept, p. 89.

The advantage of developing an electronic document management system (it is unnecessary to list the benefits of electronic document management per se, given that the court's document management is already carried out electronically) is that the statistical solutions embedded in or integrated with the document management application make this possible. Furthermore, much more information can be extracted from the system than is currently possible, and this also ensures that the data can be grouped from many different perspectives in the future. Linking electronic document management and case management, meanwhile, enhances the potential inherent in both document management and case management.

The advantage of electronic case management is that the time-consuming movement of documents within the organisation is eliminated. The bottleneck of who holds the original (or a copy) of the documents no longer exists, therefore parallel work becomes possible without the need for copying, and communication can also be made significantly more efficient within the appropriate case management system (e.g. court orders can be recorded as audio files within the system, and the audio recording made during the hearing would be available in the system for the preparation of the hearing minutes). Electronic case management presupposes that documents are available electronically; thus, by developing appropriate search solutions, it is possible to search all of the court's documents.

The advantage of an electronic archive is that, with careful procedures, the preservation of documents for essentially an unlimited period can be ensured, searchability is significantly simplified, the retrieval of documents from the archive can be faster, and the space requirements for physical archives are eliminated.⁴⁶

It is important to note that the aforementioned developments facilitate both the digitisation of case management and the digital support of adjudication.⁴⁷ A good example of this is the anonymisation module, which automatically anonymises the text of a decision submitted in the appropriate format. This reduces the administrative workload of judges whilst also producing a format suitable for publication in the public collection of decisions, which is freely accessible

⁴⁶ Concept, p. 90.

⁴⁷ For a detailed description of these, see Chapter III.

online to anyone, thereby assisting judges in their adjudicative work (it also ensures that citizens seeking legal information can access the decisions). The integrated court IT system is also worth mentioning, which ensures access to e-files for courts and clients; it also contains court case management documents, meaning that virtually the entire case management process can be carried out within the electronic file. Digital developments supporting judicial work and case management thus work side by side, complementing one another to create the conditions necessary for more efficient, higher-quality judicial work.

II.1.2. The main regulatory innovations in the context of procedural efficiency and digitalisation

The explanatory memorandum of the final drafters of the Pp. (hereinafter: Pp. explanatory memorandum) mentions several regulatory objectives, of which the system-wide implementation of procedural efficiency is of particular importance. According to the Pp. explanatory memorandum, the most important pleadings, e.g. the statement of claim,⁴⁸ and the counter-claim, which must be submitted in writing, serve both to ensure the proper, targeted preparation of the proceedings and to facilitate the conversion of submissions into standard forms, which assists parties proceeding without legal representation and also facilitates electronic communication.

Furthermore, within a standardised procedural framework modelled on mandatory legal representation, the professionalism of the parties' procedural conduct can greatly facilitate both the effective enforcement of claims and the protection of rights, as well as the defence against them, and the conclusion of proceedings within a reasonable timeframe. At the district court level, however, the legislative approach introduces a number of rules in the Civil Procedure Act (Pp.) to assist with the enforcement of rights where a party does not have le-

48 For the types of claims and the regulation of joinder of claims, see: Judit GYARMATHY: Commencement of Proceedings, Sections 172–173. In: Zsuzsa Wopera (ed.): *Comprehensive Commentary on Act CXXX of 2016 on the Code of Civil Procedure*. Wolters Kluwer Hungary Kft. Budapest, 2023, pp. 311–314, and in relation to this, regarding decisions: Judit GYARMATHY: Chapter XXV: Types, content and notification of decisions. In: Zsuzsa Wopera (ed.): *Comprehensive Commentary on Act CXXX of 2016 on the Code of Civil Procedure*. Wolters Kluwer Hungary Kft. Budapest, 2023. pp. 687–718.

gal representation, e.g. the use of standard forms, lower standards for submissions, and broader judicial management of the proceedings to assist the party.

It should be emphasized that, following the entry into force of the Pp., the standard forms were initially of an alarmingly long length (30–50 pages), making it difficult for them to fulfil the role of simplification (standardisation) that was important to clients. The recommendations of the working group of judges supporting the entry into force of the Pp. also played a role in ensuring that the standard form for statements of claim used by parties proceeding without legal representation – through the enactment of Decree 6/2019. (III. 18.) IM on the forms to be used in civil proceedings and administrative court proceedings – became shorter and simpler.⁴⁹

The explanatory memorandum to the Civil Procedure Act also emphasises that greater scope is given to electronic communication than before, in line with the provisions of Act CCXXII of 2015 on the general rules of electronic administration and trust services (hereinafter: the E-Administration Act), in that the Act contains the necessary rules in view of the specific characteristics of civil proceedings. This applies to both electronic communication and the use of modern information technology in civil proceedings.

The importance of using modern information technologies is indicated by the fact that the legislator began implementing the objective set out in the Concept as early as the preparatory phase of the Act, by making electronic communication mandatory in the 1952 Code of Civil Procedure. In civil proceedings, following 1 July 2016, pursuant to Section 1 of Act CCXII of 2015, electronic communication—which had previously been optional—became mandatory for essentially all parties to proceedings other than those appearing in person, in civil actions commenced thereafter and in other civil proceedings where required by law, as well as in administrative and labour proceedings.⁵⁰

49 Judit GYARMATHY – Zsuzsanna SÁNDOR-SZŐKE: National conference on experiences with the new Code of Civil Procedure. *Journal of Legal Science*, 2019/11, p. 467. The aforementioned IM Decree was subsequently repealed – in order to implement the amendments intended to be introduced by the Act amending the Code of Civil Procedure – by Decree 17/2020. (XII. 23.) IM on forms applicable in civil proceedings and administrative court proceedings, which had entered into force on 1 January 2021.

50 See: Section III.4.

In summary, it can be stated that the aim of utilising the benefits of digitalisation fits within the new structure and regulatory framework of the Civil Procedure Act, which were designed to facilitate decisions within a reasonable timeframe as part of fair proceedings. The harmony of all these elements provides the parties to the proceedings with a regulatory environment capable of significantly facilitating the enforcement of claims brought before the court, and thereby the realisation of the fundamental right of access to the courts. Furthermore, it serves as an appropriate starting point for further digitalisation developments: by enabling extensive electronic communication, it has laid the foundations for the submissions produced electronically by the parties and submitted to the court to be available in digital form, and thus – naturally following further regulation and development – it may become possible for the documents to be machine-readable, facilitating better searchability for both the parties and the court. There is no doubt that the continued digitisation in this area would also promote the efficiency of litigation.

II.2. The adjudication of legal disputes within a reasonable time – the changed situation due to the Pevtv.

A fundamental expectation of the courts is that they should adjudicate the legal disputes brought before them to a high standard and within a reasonable time.⁵¹ In the context of the monograph's subject matter – following a brief overview of the relevant legal institutions – it is appropriate to examine, in this latter regard, the use and impact of digitalisation achievements on the fulfilment of this requirement.⁵²

51 The adjudication of legal disputes within a reasonable time in civil proceedings is discussed in detail in: Lilla RAINER's PhD thesis entitled *'The Requirement of Conclusion within a Reasonable Time in Civil Proceedings'* (Károli Gáspár Reformed University, Doctoral School of Political Science and Law, Budapest, 2022). Compare with:: The enforcement of the requirement for proceedings within a reasonable time under the new Code of Civil Procedure. In: Miskolczi, Péter Bodnár (eds.): *12th National Professional Meeting of Doctoral Students in Law*. Budapest, Károli Gáspár University of the Reformed Church, Faculty of Political Science and Law, 2018. pp. 341–353. See also: János BÓKA 'To Delay Justice Is Injustice': A Comparative Analysis of the Requirement of Reasonable Time. In: Attila Badó (ed.): *Judicial Independence, Fair Trial and Politics*. Comparative Legal Studies. Gondolat Publishing House. Budapest, 2011. pp. 134–155.

52 See point II.9.

II.2.1. Regulation of the fundamental right to the conclusion of proceedings within a reasonable time

Article 57(1) of the Constitution, in force since 23 October 1989, provided that everyone is equal before the courts in the Republic of Hungary, and everyone has the right to have any charges brought against them, or their rights and obligations in any legal proceedings, adjudicated by an independent and impartial court established by law in a fair and public hearing. In the text of the Constitution, the right to the conclusion of proceedings within a reasonable time did not appear as a fundamental right. The concept of ‘the adjudication of legal disputes within a reasonable time’ appeared in Section 57(5), which came into force on 30 July 1997, in the context of restricting the right to legal remedy in order to ensure the adjudication of legal disputes within a reasonable time.

Pursuant to Article XXVIII (1) of the Fundamental Law, which entered into force on 1 January 2012, everyone has the right to have any charge brought against them or any dispute concerning their rights and obligations adjudicated by an independent and impartial court established by law, in a fair and public hearing, within a reasonable time.

According to the interpretation set out in Constitutional Court Decision 2/2017 (II.10.) AB (hereinafter: Abh.)⁵³, the right to a fair trial consists of several guaranteeing rules. The specific rights comprising the right to a fair trial enshrined in Article XXVIII(1) of the Fundamental Law are, in particular: the right of access to the courts, the requirement of a fair trial, the requirement of public hearings and the public pronouncement of judicial decisions, the requirement of courts established by law, the requirement of judicial independence and impartiality, and the requirement of adjudication within a reasonable time.

The Fundamental Law therefore – in view of international obligations – enshrines the requirement of adjudication within a reasonable time as a component of the right to a fair trial set out in Article XXVIII(1), in contrast to the text of the Constitution. However, the Constitutional Court had al-

53 Abh. [50] para.

ready addressed the requirement for the adjudication of court proceedings within a reasonable time in its early decisions, and although this expectation was not expressly set out in Article 57(1) of the Constitution, it treated this obligation as a component of the right to a fair trial.⁵⁴

On the basis of the above, it can be concluded that for nearly thirty years, the fundamental right to the conclusion of proceedings within a reasonable time has been present in the practice of the Constitutional Court as a component of the right to a fair trial.

With the entry into force, on 1 January 2012, of Act CLI of 2011 on the Constitutional Court (hereinafter: Abtv.) it became possible for petitioners to invoke the violation of the fundamental right to the conclusion of proceedings within a reasonable time in relation to the protracted nature of court proceedings concerned by a constitutional complaint. However, in its decisions handed down following the entry into force of the Fundamental Law, the Constitutional Court has rejected constitutional complaints based on a violation of the fundamental right to the conclusion of proceedings within a reasonable time, pursuant to Section 29 of the Act on the Constitutional Court, where the protracted nature of the proceedings did not affect the merits of the judicial decision rendered in the case. On a few occasions, it also examined the substance of the alleged infringement of the fundamental right to the conclusion of proceedings within a reasonable time, yet in this context it also found that, as the supreme body for the protection of the Fundamental Law, it cannot effectively fulfil its duty to protect the fundamental right relating to the provision of the Fundamental Law on adjudication within a reasonable time, which forms part of the right to a fair trial.⁵⁵ This is because the Constitutional Court does not have at its disposal any statutory means by which it can mitigate or remedy the consequences arising from the protracted nature of court proceedings. Where a violation of a fundamental right is established, the annulment of the contested decision cannot serve to remedy the harm arising from the protracted nature of the proceedings, particularly given that the annulment of the contested decision would also result in the proceedings,

54 Constitutional Court Decision 38/1991 (VII. 3.), Constitutional Court Decision 994/D/2005 {Abh., Reasoning [51]}

55 Constitutional Court Decision 3024/2016 (23 February) [para. 20]

which have already been unreasonably prolonged, continuing and thus being further prolonged.⁵⁶ On this basis, a claim brought in connection with the protracted nature of the proceedings could only be enforced through other legal channels, namely in civil proceedings.

Section 2(1) of the 1952 Code of Civil Procedure, which was previously in force, defined, among other things, the court's duty in civil proceedings as ensuring that the parties' right to have proceedings concluded within a reasonable time was upheld.

Under the provision of Section 2(3) of the 1952 Pp., in force since 1 July 2003, if the court fails to fulfil this obligation, the party may claim damages providing fair compensation on the grounds of an infringement of their fundamental rights, provided that the infringement cannot be remedied in the appeal proceedings. Section 2(3) of the 1952 Civil Procedure Act, it also provided that if a party suffers damage and that damage could not be remedied in the appeal proceedings. It further provided that if a party suffers damage which cannot be remedied in the appeal proceedings, they may claim compensation for their loss from the infringer in accordance with the rules on liability for non-contractual damages.

II.2.2. The significance of the Pevtv.⁵⁷

The Pp., which entered into force on 1 January 2018, mentions the principle of fair proceedings in its preamble, stating that the National Assembly enacted the Pp. with a view to settling private law disputes in accordance

⁵⁶ Constitutional Court Decision 3271/2023 (9 June) [para. 21]

⁵⁷ In this section, it is only appropriate to discuss the Pevtv. and related issues insofar as they are directly relevant to the subject of this monograph; for a detailed treatment of the subject, see: Zoltán BODA: The potential effects of Act XCIV of 2021 on the enforcement of financial compensation for the protracted nature of civil proceedings on adjudication. In: György Mailáth Academic Competition 2022. National Judicial Office. Budapest, 2023. pp. 477–511, Ákos HEGEDŰS: *Possibilities for expediting proceedings in cases concerning personal status*. PhD thesis. University of Debrecen, Géza Marton Doctoral School of Political Science and Law. Debrecen, 2023. (hereinafter: HEGEDŰS) pp. 161–186, Zoltán BODA: *The enforcement of effective remedies as required by the European Court of Human Rights within the Hungarian legal system*. PhD thesis. University of Debrecen, Géza Marton Doctoral School of Political Science and Law. Debrecen, 2025, pp. 104–170.

with the principle of fair proceedings. The removal of the provision contained in Section 2(3) of the 1952 Pp. can be regarded as a deliberate legislative objective; that is to say, the Pp. – in my view correctly – does not contain a procedure providing for compensation for the infringement of fundamental procedural rights.

Act XCIV of 2021 on the enforcement of financial compensation in connection with the protracted nature of civil proceedings, which is suitable for compensating for the infringement of fundamental rights, entered into force on 1 January 2022 (hereinafter: Pevtv.). According to the preamble, the National Assembly, with a view to promoting the efficiency of the administration of justice, to fulfil the right of litigants to proceedings concluded within a fair and reasonable time, and to establish an effective remedy against the protracted nature of civil court proceedings, enacted the Pevtv.

The significance of the Pevtv. lies, among other things, in the fact that the legislature has thereby established the effective system of legal remedies required by the European Court of Human Rights (hereinafter: ECtHR) in connection with the right to proceedings within a reasonable time.⁵⁸ Indeed, in the *Gazsó v. Hungary* case, which became final on 16 October 2015, the ECtHR called on Hungary to develop an effective system of legal remedies in this regard.⁵⁹

The law is further significant in that it specifically defines the reasonable duration of individual civil proceedings. Generally, the law sets out the timeframe within which the resolution of a legal dispute may be considered reasonable for the entire proceedings, for specific procedural stages, and for various types of proceedings.⁶⁰ It is worth noting that, in addition to this objective mechanism compensating for the infringement of fundamental rights, the affected party may also seek redress for their subjective infringement of rights under the rules of the Civil Code, based on the rules concern-

58 For further details, see: HEGEDŰS, pp. 161–186.

59 See in detail: CZINE, op. cit., pp. 76–78; *Gazsó v. Hungary* (48322/12), 16 July 2015, paragraph 5 of the operative part.

60 Attila KISS: *The manifestation of the requirement of concentration of proceedings through fundamental principles and the split structure of proceedings*. PhD thesis. University of Debrecen, Géza Marton Doctoral School of Political Science and Law. Debrecen, 2023. (hereinafter: KISS) pp. 180–181.

ing compensation for damage caused within the jurisdiction of the courts or on the rules concerning compensation for injury aimed at remedying an infringement of personality rights.

Prior to the entry into force of the Pevtv., the criteria established by the Constitutional Court were applied when examining the excessive length of proceedings. The Constitutional Court – drawing on the case law of the ECtHR – set out in Abh⁶¹ the criteria on the basis of which it can be assessed under what conditions a court proceeding satisfies the requirement of adjudication within a reasonable time.

In Abh, the Constitutional Court interpreted the expectations arising from the requirement of adjudication within a reasonable time, as set out in Article XXVIII(1) of the Fundamental Law, in the context of criminal proceedings. On this basis, the constitutional approach must also be applied when examining this partial licence, according to which the court proceedings as a whole and their individual components must be assessed simultaneously in order to establish that the court hearing the case has endeavoured to adjudicate within a reasonable time. If it can be inferred from the proceedings of the court under review and the history of the case that the court did not have in mind the constitutional requirement of adjudication within a reasonable time, then the protracted nature of the (criminal) proceedings in question, the inaction of the court concerned – can be established, irrespective of the duration of the proceedings. On this basis, even a (criminal) proceeding of short duration in an absolute sense may be deemed protracted if the facts of the (criminal) proceeding do not demonstrate that the courts involved have made efforts to reach a decision on the charges as soon as possible, whilst bearing in mind the requirements of a fair trial. The duration of criminal proceedings – even where the law governing criminal proceedings is complied with – infringes Article XXVIII(1) of the Fundamental Law if there are periods of unjustified inactivity attributable to the courts hearing the case and the excessive length of the criminal proceedings is not justified by the complexity of the case. However, the duration of the protracted proceedings does not include any delay caused by the conduct attributable to the defendant, provided that the court hearing the case was unable to eliminate

61 Abh. Reasoning [59] para.

it using the legal means at its disposal [e.g. proceedings against an absent defendant (Cr. Proc. Act, Chapter XXV), legal consequences of failure to appear in response to a summons (Section 69 of the Code of Criminal Procedure)].

According to the Supreme Court's interpretation of the law in specific cases, the entire proceedings, the subject matter and nature of the legal dispute must be examined when assessing whether the right to a conclusion within a reasonable time has been infringed. Account must be taken of the nature and complexity of the case in question, the conduct of the party concerned and the conduct of the court (Supreme Court Pfv.IV.21.556/2016/9, Pfv.IV.20.120/2016/8).

In contrast to the above, the Pevtv. quantifies the reasonable duration of civil proceedings. According to Section 6(1) of the Pevtv., the duration of court proceedings is deemed reasonable – subject to the exceptions set out in paragraphs (3) to (5) – if it does not exceed sixty months from the date of commencement of the first-instance proceedings to the date of notification of the final decision concluding the proceedings.

Pursuant to Section 6(2) of the Pevtv., the duration of a procedural stage shall be deemed reasonable – subject to the exceptions set out in paragraphs (3) to (5) – if the duration of the first-instance proceedings does not exceed thirty months [point (a)], the duration of first-instance proceedings initiated by a payment order does not exceed thirty-six months [point (b)], the duration of second-instance proceedings does not exceed eighteen months [point (c)], and the duration of review proceedings does not exceed twelve months [point (d)].

The Pevtv. sets shorter time limits for individual proceedings depending on the subject matter of the court proceedings. According to Section 6(3) of the Pevtv., the duration of court proceedings is deemed reasonable if the proceedings concern a case relating to personal status [point (a)], a lawsuit concerning the maintenance of a minor child [point (b)], a lawsuit for a press correction [point (c)], and a labour lawsuit [point (d)] does not exceed thirty-six months from the date of commencement of the first-instance proceedings to the date of notification of the final decision concluding the proceedings. Pursuant to Section 6(4) of the Pevtv., in the case of proceedings under Section 6(3), the duration of the proceedings shall be deemed reasonable if the duration of

the first-instance proceedings does not exceed eighteen months [point (a)], the duration of first-instance proceedings initiated by a payment order does not exceed twenty-four months [point (b)], the duration of second-instance proceedings does not exceed twelve months [point (c)], and the duration of review proceedings does not exceed six months [point (d)].

Pursuant to Sections 6(5) and (6) of the Pevtv., the criteria set out by the Constitutional Court serve as a basis for the court to determine a reasonable duration that differs from the duration specified in Sections 6(1) to (4).

An important development in relation to the Pevtv. is that, in its judgment in the case of *Szaxon József Attila v. Hungary*, the ECtHR, based on an assessment of the provisions of the legislation and available domestic practice, found that the remedy of compensation provided by law is an effective remedy capable of providing adequate redress for the infringement that has already occurred.⁶² The parties therefore currently have a tangible remedy at their disposal should the timeliness of the proceedings be compromised; consequently, the fulfilment of this requirement is given significant emphasis in the application of the Civil Procedure Act.

However, in addition to the above, two conclusions from the ECtHR's judgment are certainly worth highlighting. The ECtHR examined the relevant domestic case law already available in public databases on the basis of the applicant's arguments (objections), which confirms the effectiveness of the remedy. In its assessment, these proceedings were concluded within a reasonable time (i.e. within less than twelve months).^{63 64} In connection with the application of Section 15(4) of the Pevtv. – which stipulates, as a condition for financial compensation, that the applicant must have raised an objection to the length of the proceedings – it found that domestic courts apply this provision in accordance with the case law of the ECtHR.⁶⁵ In this regard,

62 *Szaxon v. Hungary* (54421/21) (translated by the author).

[https://hudoc.echr.coe.int/eng#{%22appno%22:\[%2254421/21%22\],%22itemid%22:\[%22001-224049%22\]}](https://hudoc.echr.coe.int/eng#{%22appno%22:[%2254421/21%22],%22itemid%22:[%22001-224049%22]})

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63 In its judgment, the ECtHR examined the cases initiated at the Debrecen District Court and concluded at the Debrecen Regional Court under case numbers Pkf.II.20.345/2022 and Pkf.II.20.404/2022.

64 Paragraph 34 of the ECtHR's judgment No. 54421/21.

65 Paragraph 33 of the ECtHR's judgment No. 54421/21 ().

it took into account the interpretation of the court of second instance, according to which the question of whether the party claiming financial compensation can be blamed for failing to raise an objection must always be assessed on the basis of a careful examination of the circumstances, i.e. on a case-by-case basis.⁶⁶

On the other hand, the ECtHR also considered the amount of pecuniary compensation awardable under the new remedy to be sufficient. It emphasised that the mere fact that the amount of compensation awarded to the applicant at the domestic level does not correspond to the amounts awarded in similar cases does not deprive the remedy available in respect of the length of proceedings of its effectiveness, particularly given that Hungary enjoys a wide margin of appreciation when implementing a given pilot judgment and determining the amount of compensation, which it may set in accordance with the standard of living and in line with its own legal system and traditions.⁶⁷

In the context of preparations for the entry into force of the Pevtv., a number of issues of legal interpretation had already arisen which also affected the adjudication of the first applications. One such contentious issue, for example, was the method of calculating the period serving as the basis for the daily amount when determining financial compensation; that is, whether the entire duration of the proceedings or only the period exceeding a reasonable time limit should be taken into account.⁶⁸ Although this may appear unreasonable and unfair according to certain approaches, the legislative intent – in line with the case law of the ECtHR – was clearly to provide financial compensation for the entire period to be taken into account, as can be inferred from Section 7(2) of the Pevtv. and Section 1(1) of Government Decree 372/2021. (VI. 30.).⁶⁹

A more complex issue of interpretation arose in determining the extent of the period that cannot be counted (deducted) towards the reasonable du-

⁶⁶ Paragraph 12 of the ECtHR's judgment in case no. 54421/21.

⁶⁷ Paragraphs 35–36 of the ECtHR judgment in case no. 54421/21.

⁶⁸ Ildikó KOVÁCS – László PRIBULA: The practice of financial compensation for the excessive length of proceedings. *Journal of Legal Studies*, 2023/2. (hereinafter: KOVÁCS – PRIBULA) pp. 57–66.

⁶⁹ KOVÁCS – PRIBULA, op. cit.: p. 62.

ration of the proceedings. Under Section 15(3) and (4) of the Pevtv., only the inactivity of the applicant and the court (the latter in cases where the party does not object) provides grounds for disregarding certain periods. In this regard, the uncertainty caused by the question of whether, under the correct interpretation of Section 15(5) of the Pevtv., only periods not countable under Sections 15(3) and (4) may be deducted, or whether further periods (such as the interruption of proceedings, suspension) may also be disregarded.⁷⁰ Although the explanatory notes to Section 15 of the Pevtv. do not necessarily aid understanding, it follows from the clear identification of the exceptions in Section 15(3) and (4) and from the substantive requirements of the counter-statement [Section 14(1)(f)], it follows that there is no other period to be disregarded.⁷¹

Several questions have also arisen in connection with objections based on the protracted nature of the proceedings, the most significant of which is whether, in the case of a claim for financial compensation relating to the period prior to the entry into force of the Pevtv., the applicant's failure to raise an objection based on the protracted nature of the proceedings can be taken into account at all.⁷²

In proceedings concluded by a decision adjudicating on the merits of the first claim for financial compensation, the court of second instance took a principled stance on the interpretation of Section 15 of the Pevtv., which is of paramount importance from the perspective of the application of the law: 'Where a party seeks to prevent the prolongation of proceedings due to the court's inaction, it is expected that they should raise an objection on this ground in the ongoing proceedings if the court has failed to fulfil its obligation to take procedural steps within a reasonable time to such an extent that this is obvious and clearly recognisable to a party who has a legitimate expectation that the applicable procedural rules will be observed, and the party may reasonably expect that the indication of a breach of procedural obligations will lead to the redress of the grievance in a timely and effective manner.'⁷³ The significance of this decision is also demonstrated by the fact

70 KOVÁCS – PRIBULA, op. cit.: p. 63.

71 KOVÁCS – PRIBULA, op. cit.: p. 64.

72 The answer is yes; for details on this issue, see: KOVÁCS – PRIBULA, op. cit.: p. 65.

73 Decision No. Pkf. 20.345/2022/2 of the Debrecen Court of Appeal; published in: BDT2023.4600.

that the ECtHR, taking into account the court's interpretation, ruled that the Pevtv. constitutes an effective remedy for redressing grievances arising from the protracted nature of proceedings.

In Decision 3065/2025. (III. 7.) AB, the Constitutional Court ruled on the unconstitutionality and annulment of certain provisions of the Pevtv. and Section 1(1) of Government Decree 372/2021. (VI. 30.) on the extent of financial compensation for the protracted duration of civil proceedings and the rules for calculating the amount payable, and to exclude the application of the legislation.

It found that the regulatory framework established in the Pevtv., which the legislature created expressly to compensate for the protracted nature of civil proceedings by providing financial redress through the 'open-ended' definition of a reasonable duration of court proceedings and the designation of the claimant, cannot be regarded as contrary to the right to a hearing within a reasonable time under Article XXVIII(1) of the Fundamental Law; on the contrary, it represents a step forward in the enforcement of this right.⁷⁴

Furthermore, it noted: the method of calculation under the Pevtv. – that is, whether the legislature determines a lower amount of financial compensation for each day of the entire period of the protracted proceedings that may be taken into account, as it currently does; or whether, for the duration remaining within the bounds of reasonableness, it does not do so, but only offers the prospect of a higher amount of compensation for the period exceeding that limit, as suggested by the petitioner – is a neutral technical issue concerning merely the method of calculation, from the perspective of the right to a fair trial under Article XXVIII(1) of the Fundamental Law; therefore, the initiative was also rejected in this regard.⁷⁵

Nor did it find the petitioners' argument relating to the separation of powers to be well-founded. It explained that the uniform procedural form – in which a claim for financial compensation may be enforced in a single civil non-contentious proceeding against the court, as the party best able to control delays – is consistent with the requirement of mutual cooperation between the branches of state power. In this context, it also noted that al-

74 Constitutional Court Decision No. 3065/2025 (7 March) [paragraph 35].

75 Constitutional Court Decision No. 3065/2025 (7 March) [paragraph 37].

though the court is the respondent in these proceedings, the funds to cover the monetary claim to be enforced are provided for in the budget adopted by the National Assembly.⁷⁶

In summary, it can be concluded that the enactment of the Pevtv. is closely linked to the issue of procedural efficiency; the legal consequences set out therein – which allow for few exceptions on the part of the courts and have budgetary implications – may act as a deterrent to the protracted nature of cases.

II.3. The relationship between digitalisation and the reformed procedural law

II.3.1. Digitalisation as a tool supporting the completion of proceedings within a reasonable time

As mentioned earlier, pursuant to the Government Decree ordering the commencement of work on the comprehensive modernisation of the 1952 Code of Civil Procedure, the new Code of Civil Procedure regulates procedural matters with due regard to technological advances. From the perspective of the administration of justice under the Code of Civil Procedure (), digitisation and timeliness are primarily linked through electronic procedures. The advent of electronic communication has already had a speed-enhancing effect on proceedings pending under the 1952 Code of Civil Procedure, and this is no different in cases pending under the current Code of Civil Procedure. Electronic communication has, in fact, made access to the courts, as well as communication with clients and the courts hearing the case, simpler, more flexible and faster, a development to which the Act on Electronic Public Administration – as described above – lends further significance. One example is that, thanks to electronic service, the potential inability to identify the recipient of a consignment or the date of receipt – which occasionally occurs in the case of paper-based, postal service – has been eliminated.

76 Decision No. 3065/2025 (7 March) of the Constitutional Court, paragraph [40].

Technical innovations that support the acceleration of proceedings include the e-file (the ability to view court documents electronically), the use of the VIA VIDEO system enabling remote hearings, and the use of speech recognition software during the drafting of court documents.⁷⁷

In general, the IT tools available to judges (PCs, laptops, tablets) facilitate professional and timely adjudication; among these, mobile devices, through the use of so-called ‘remote desktop’ applications, allow access to court records and cases pending before the judge regardless of time or place. These technical tools ensure unrestricted access to the statute book and the collection of court decisions, as well as participation in online training courses.

For the sake of completeness, it is worth mentioning in this context the relationship between administrative activities and digitalisation from the perspective of timely adjudication. Pursuant to Section 118(3) of the Courts Act, the head of the court is responsible for ensuring that the court or the court’s organisational unit complies with legislation, the regulations and decisions issued by the President of the National Judicial Office (hereinafter: NJO), which includes, amongst other things, monitoring compliance with procedural deadlines. The electronic recording of case data enables court managers to monitor the progress of proceedings, which is significant not only in terms of meeting the constitutional requirement and expectation of adjudication within a reasonable time, but also in view of the strict provisions of the Pevtv. already mentioned.

The constantly changing and evolving technical environment inevitably affects the technologies supporting judicial activities. The next chapter in the relationship between digitalisation and the administration of justice may be the wider emergence of artificial intelligence in the judicial system; however, a comprehensive review of developments in this area would exceed the scope of this paper.⁷⁸ It can already be anticipated that even the prospect of cases being concluded within a reasonable timeframe is not sufficiently appealing to allow machine-based decision-making to take precedence over human judgement, perhaps not even in cases involving simpler

⁷⁷ For details of these tools, see Chapter III.

⁷⁸ For the potential applications and directions of artificial intelligence in the administration of justice, see Section VII.3.

assessments or smaller sums in dispute. However, in the preparatory phase supporting the decision, there is scope for this within appropriate frameworks and precise rules.

II.4. Summary: Preparing for the application of the revised procedural rules and digital innovations

One of the fundamental tenets of the explanatory memorandum to the Pp. is that the detailed content of the most important pleadings in the Act, e.g. the statement of claim, and the mandatory written statement of defence, serve both to ensure the proper, targeted preparation of the case and to facilitate the conversion of submissions into standard forms, which assists parties acting without legal representation and also facilitates electronic communication. In this way, changes to the rules governing the commencement of proceedings have a direct impact on digitalisation; in the course of developing the information and communication technology of court systems, the provisions of the Civil Procedure Act – and other relevant rules – must continue to be given due consideration. The new regulations, moreover – not only in the context of initiating proceedings but also in general – present a significant challenge to the courts; suffice it to refer here to the new legislative environment created by the introduction of digital citizenship in the Fundamental Law, and the developments necessitated by it.

Sándor Udvary's observations in this regard are also worth considering: whilst the declining number of incoming cases is beneficial in terms of the courts' caseload and the timeliness of proceedings, this phenomenon may also indicate a turning away from the courts, which could have serious consequences, including, amongst other things, the number of judicial posts; therefore, there may be a need to strengthen the 'service-oriented nature' of the courts in order to preserve their role.⁷⁹

It is also worth noting that there is a connection between digitalisation and the Code of Civil Procedure that is indirectly related to the administration

79 Sándor UDVARY: Remedies in a crisis – a crisis in remedies? *Journal of Legal Studies*, 2024/1, p. 31.

of justice: the use of modern technologies in preparing for the application of the new procedural rules. As part of the preparations for the entry into force of the new procedural law, projects established to introduce the Code of Civil Procedure (as well as the Code of Administrative Procedure) have produced modern, practical teaching materials—available on various digital platforms (e.g. e-learning, podcasts, video recordings, presentations) that supports the uniform application of the Civil Procedure Act. Furthermore, the development of national court IT systems relating to civil proceedings, adapted to the provisions and procedures of the new Civil Procedure Code, has commenced and is still ongoing.⁸⁰ Although the developments described above are not directly linked to the enforcement of procedural rules, it is clear that digitalisation thus has an indirect impact on the application of the Code of Civil Procedure.

⁸⁰ Report of the President of the National Judicial Office for 2017, p. 32.

<https://birosag.hu/sites/default/files/2018-10/beszamolo2017.pdf> Downloaded: 9 March 2024.

III. Court digitisation in Hungary⁸¹

The digitisation of court proceedings plays a key role in facilitating access to justice and ensuring the efficiency of litigation. These systems – in addition to enabling electronic communication and the online tracking of proceedings – are also significant in the context of cross-border cooperation between judicial authorities and the implementation of EU legislation.⁸²

Before presenting a detailed overview of digital developments, it should be noted that, on the one hand, these facilitate the enforcement of clients' rights in order to ensure access to justice (these include, for example, developments supporting the submission of pleadings: standard forms; electronic communication; online access to e-files; a case duration calculator providing indicative estimates of the expected duration of various types of proceedings in a given region; the option to submit administrative complaints online; and the institution of remote hearings), whilst on the other hand – in terms of both administrative and substantive aspects⁸³ – they assist the adjudicative process (this includes e-files enabling online access to the content of individual documents; developments aiding the drafting of decisions and anonymisation, speech recognition and transcription programmes, and deadline-monitoring and alert applications).

With all this in mind, and bearing in mind the aspects of procedural efficiency, it is worth taking a closer look at the main domestic steps in the digitisation process, whilst also looking ahead to the expected directions of legislation.

81 The content of this chapter has been published in the following works: GYARMATHY 2025, pp. 65–72. Judit GYARMATHY: The digitisation of the courts in Hungary. Is electronic the same as digital? Part II. *Magyar Jog*, 2025/3, pp. 154–162.

82 For example: Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure.

83 See also section II.1.1.

III.1. Initial efforts – the creation and development of the Integrated Court IT System

III.1.1. The initial steps – from the turn of the millennium to the end of 2011

Computers, IT tools and applications first appeared in the day-to-day work of Hungarian courts more than thirty years ago, in the early 1990s. At that time, these modern tools merely facilitated daily work, and the standardisation and interconnection of the systems operating in individual courts soon became a key consideration. A few years later – in line with the development trends of e-government – the creation of a unified IT system for the courts came to the fore, a project launched in the early 2000s under the European Union's PHARE programme. Its aim was to implement, within the court system – which at the time employed several thousand people (approximately 9,000) – “a complex investment and application development project based on an IT strategy, the result of which would significantly speed up court administration and office management, and increase the efficiency of processes.”⁸⁴ In the case of an IT system of this scale, it is particularly important to establish and properly regulate a standardised, unified system and processes. Nevertheless, we must not lose sight of the fact that the constitutional duty of the courts is the administration of justice, in the course of which they must ensure the timely and high-quality handling of a constantly growing number of cases, for which continuous IT support is of fundamental importance. It should also be emphasised that, alongside the need for cases to be concluded as soon as possible, it is important for clients to be provided with appropriate guidance and information, and to be able to liaise with the courts (through the option of electronic case management), within the framework of which they must be able to access the necessary information, as far as possible, regardless of time and place; this should also be facilitated through IT tools – and, where possible, through appropriate integration with e-government services.

84 OIT Decision No. 149/2007 (6 November) on the IT Strategy for Judicial Organisations, Section 1.

The document management software that currently underpins the basic functioning of the courts, the Integrated Court IT System (hereinafter: BIIR), was developed in the first half of the 2000s using PHARE development funds. Decision No. 211/2004. (XII. 7.) OIT contains provisions on the schedule for the 2005 trial operation of the IT PHARE development:⁸⁵ detailed

1. the tasks related to the software (the complete preparation of all necessary software, the uploading of data repositories – forms, address books – testing, software integration, the preparation of training materials and the delivery of training, launching and running the programme in parallel at ‘pilot’ courts, backing up the databases, conducting a nationwide parallel trial run of the BIIR, followed by its ‘live’ launch, and finally, if everything is working properly, taking over the system),
2. hardware-related tasks (e.g. upgrading the central server’s memory and installing the necessary software, implementing a nationwide automatic backup system, reorganising workstations nationwide to manage applications, ensuring uniform hardware specifications across all courts and installing the necessary software),
3. tasks required for migration (migration of data from registers used in courts: where a register programme is in operation, using a migration programme; where paper-based registration is in use, through manual data entry),
4. training tasks (first in-person training for key users, then for all users, culminating in a final exam; followed by ongoing e-learning),
5. and finally, system integration tasks (hardware, software and network integration).

The OIT ordered the use of the BIIR, developed under the aforementioned programme, from 8 May 2006 in OIT Decision No. 49/2006 (V. 2.).⁸⁶

85 The timetable was amended by OIT Decision No. 58/2005 (22 March). Requests for information on the status of the BIIR’s implementation and related tasks were a recurring item on the agenda of OIT meetings: OIT Decision No. 116/2005 (14 June), OIT Decision No. 193/2005 (6 December), OIT Decision No. 65/2006 (6 June) OIT resolution, 147/2006. (5 December) OIT resolution, 80/2007. (5 June) OIT resolution.

86 Szabolcs KÉKEDI – Zsolt ZÓDI: The state of court IT in Hungary. In: Zsolt Zódi (ed.): *Legal technologies. Digital law enforcement*. Ludovika University Press. Budapest, 2022. (hereinafter: KÉKEDI – ZÓDI) p. 50.

OIT Decision No. 155/2010 (21 June) on the adoption of a strategy concerning the assessment of the state of the administration and operation of the court system, objectives and proposals for the further development of the organisation, and the related tasks OIT, based on a review of the external and internal conditions governing the operation of the courts, and with a view to establishing a professional, timely, high-quality and transparent administration of justice in line with modern requirements – among other things – adopted as an action programme the assessment of the administration and operation of the judicial system, a strategy concerning objectives and proposals for the further development of the organisation, and a related professional summary containing a detailed description of the objectives and proposals. The resolution Annex 1 (strategy to the resolution), entitled ‘The National Council of the Judiciary’s assessment of the state of the administration and operation of the judicial organisation; Objectives and proposals for the further development of the organisation’, sets out in point 6 the long-term directions for IT development and the formulation of tasks relating to the IT organisation. It was noted at the outset that IT was already present across virtually the entire spectrum of court proceedings, and staff were already able to carry out office work on computers, for which the operational infrastructure had also been established. It was also noted that rapid IT developments entail difficulties; for example, the available bandwidth is insufficient to ensure uninterrupted work, and the separation of the court and commercial court networks also poses a problem in day-to-day operations. They concluded that, in order to keep pace with digital development, there is a need, on the one hand, for IT specialists who are continuously trained and possess a uniform level of knowledge, and, on the other hand, tools and applications – ideally with a uniform infrastructure and ensuring interoperability – that support day-to-day operations under secure conditions, all underpinned by a stable operational and development environment.

The shift in approach was particularly evident because it was also stated that: instead of paper-based, costly and space-intensive data assets, the aim in the courts is to establish a modern, digital data asset, and in this regard, the task is to create the complex set of conditions – relating to case management, document management, administration, security, infrastructure and

organisation – required for this. It is clear that digital data is easier to process, analyse, search and compare, and can be stored more cheaply.

The strategy also reflects the view that, in order to achieve a customer-friendly, European-standard service free from spatial and temporal constraints, the judicial system must – in addition to the limited domestic resources available for this purpose – also draw on various European Union and international resources to develop the electronic procedures prescribed by law. Incidentally, as early as 2006, the OIT adopted the so-called e-court concept⁸⁷ – with a view to increasing the efficiency of court services – the essence of which was to create the possibility of conducting proceedings without the need for personal attendance: via the internet and mobile devices, within a personalised service framework, with continuous ‘opening hours’, using digitally authenticated electronic documents and ensuring the exchange of electronic data between partner agencies. To identify the tasks required for implementation, a committee was established, which deemed the following worthy of implementation: extending the further expansion of electronic company proceedings to the courts of second instance; the electronic handling of payment orders; the registration of foundations, and civil society organisations, the electronic submission and processing of documents in enforcement proceedings, the use of electronic documents in certain phases of bankruptcy and liquidation proceedings, the ‘electronic submission’ of indictments, and the anonymisation of court decisions and making them available to the public. Recognising that the introduction of these developments requires a longer period of time, and that the resources necessary for their implementation must therefore be continuously available, the aim was set to make maximum use of current opportunities from EU and other international sources.

A key element of the concept was the stipulation that priority must be given to the needs of the courts; in other words, practical experience in adjudication and administration must be utilised during the development process, and the participation of staff who convey this experience is essential during planning and implementation.

87 Strategy III/6.

III.1.2. Stages of development from 1 January 2012 to the end of 2014

With the entry into force of the Courts Act, which, amongst other things, fundamentally reformed court administration, the OIT established by Act LXVI of 1997 on the Organisation and Administration of the Courts (the old Courts Act) ceased to exist. From this point onwards (1 January 2012), the central administration of the courts has been carried out by the President of the National Judicial Office (OBH), who assumed the administrative powers of the OIT and its President; thus, among his numerous powers – relevant to our topic – were ensuring the material conditions for adjudication, and their optimal allocation and utilisation. The simplification of access to the courts was already included among the strategic objectives formulated by the President of the OBH in 2012.⁸⁸ In reviewing the tasks of his nine-year term ahead, he assessed the IT situation of the courts within that framework.⁸⁹ A key finding of this – based also on the results of work commenced in the previous period – was that the role of court IT is to provide effective support for court work processes, and that IT solutions should improve the timeliness of judgments, ensure the efficient administration of justice, reduce the duration of proceedings and the administrative burden, the optimal and objective allocation of staff, faster and more sophisticated customer service, the rapid flow of information and the development of a knowledge base. The scale of the task is illustrated by the need to ensure the coordinated and seamless operation of more than 10,000 workstations and 150 local networks, as well as numerous applications supporting judicial and administrative work.

In addition to modernising and renewing the hardware infrastructure, the modernisation of the software infrastructure was considered a priority task, with the latter focusing on data reuse, the elimination of duplication, and

88 András OSZTOVITS: The future of adjudication in the digital world. In: *The 150th anniversary of the enactment of Act IV of 1869 on the exercise of judicial power*. The Supreme Court's ceremonial plenary session and conference. Supreme Court. Budapest, 2019. p. 142.

89 Report of the President of the National Judicial Office, first half of 2012, pp. 42–45.
<https://birosag.hu/beszamolok/az-oroszagos-birosagi-hivatal-elnokenek-beszamolaja-2012-i-felev>

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automation (the latter meaning, on the one hand, that data already recorded in the system should not have to be re-entered but should be automatically placed in the appropriate location, and, on the other hand, that this is the desirable approach even for work processes that can be carried out without human resources). An assessment of the hardware stock carried out at that time revealed that, out of ten court staff members, only three had access to IT equipment meeting modern standards; in other words, modernisation could no longer be postponed.

An assessment of the company registry and company information systems has also been carried out. This revealed that a key issue in the operation of these systems is that the company registry servers are owned by the ministry and also host the IT applications for bankruptcy and liquidation cases (the latter has caused server and storage capacity issues on several occasions, posing an operational risk).

Within the framework of the Electronic Public Administration Operational Programme (EKOP) of the New Hungary Development Plan, three major IT projects were underway or had been completed within the court system at that time (in the first half of 2012): ‘Modernisation of the registration and record-keeping of civil organisations, as well as bankruptcy and liquidation proceedings’, “The digitisation of client relations in certain court proceedings”, and “The further development and modernisation of company registry and company information systems”.⁹⁰

The aim of the “Csőd-Civil” project⁹¹ is to modernise the registration and record-keeping of civil organisations, as well as bankruptcy and liquidation proceedings, to provide a modern, customer-friendly, space- and time-independent (such as travel, queuing, and having to adapt to office and customer service hours). As a result, a complex IT application was developed that is

90 Report of the President of the National Judicial Office, first half of 2012, p. 93.
<https://birosag.hu/beszamolok/az-orszag-birosagi-hivatal-elnoke-neh-beszamolok-2012-i-fele>

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91 EKOP – 1.1.5-2008-0001. Project entitled ‘Modernisation of the registration and record-keeping of civil organisations, as well as bankruptcy and liquidation proceedings’, duration: 28 November 2008 – 30 October 2013, implemented with funding of approximately 1,000,000,000 forints.

capable of handling the procedures of these two areas electronically, receiving submissions, storing electronic documents, and managing electronic payments – via the Electronic Payment and Settlement System (EFER).

The “E-Cég” project⁹² was carried out in consortium with the Ministry of Public Administration and Justice. As a result, data on company cases proceeding to the second instance can now be transmitted electronically to the courts, where they can be processed electronically; furthermore, the project also established a connection between the courts and the customer service system via a ‘call centre’.

As a result of the ‘Customer Relations’ project,⁹³ in civil proceedings – where permitted by law – it has become possible for clients to submit documents and files prepared electronically and for the courts to accept them: using the transaction module, electronic documents sent to and received by the courts are forwarded to the competent court body, and this module ensures the storage of electronic documents in an authenticated form. Finally, the anonymisation module was developed as part of this project in such a way that – whilst complying with data protection rules – it automatically removes ‘sensitive’ data from decisions and then publishes the anonymised decisions.

As already indicated, the President of the National Judicial Office (OBH), which is responsible for the completely restructured central administration of the courts, has set the following strategic objectives⁹⁴ (1. that the courts fulfil their constitutional obligations: independent judges should adjudicate to a high standard and in a timely manner; 2. the optimal allocation and utilisation of human resources; 3. ensuring material conditions and their optimal allocation and utilisation; 4. the integrity of the judicial organisation, the transparency of judicial and administrative work, and the predictability and accountability of the latter; 5. simplifying access to the courts; 6. the development of the training

92 EKOP-1.1.1-07-2009-0001. Project entitled ‘Further development and modernisation of company registry and company information systems’, duration: 8 October 2008 – 31 December 2011, implemented in the courts with a grant of 216,000,000 forints.

93 EKOP – 1.A.1-08/B-2009-0002. Project entitled ‘Digitisation of client relations in certain court proceedings’, duration: 5 January 2010 – 31 December 2012; the project was implemented with a grant of 400,000,000 forints.

94 2012 Annual Report of the President of the National Judicial Office, pp. 17–19.

<https://birosag.hu/beszamolok/az-orszagos-birosagi-hivatal-elnoke-2012-evi-beszamolaja>

system and cooperation with other professions) it deemed necessary, in line with the direction already taken, to involve external resources more effectively, and this work – as I shall demonstrate below – is marked by successful applications and successfully completed projects, as well as developments that have actually been implemented and are being utilised in practice.

I shall now present the successful applications submitted and awarded under the EKOP at the end of the 2007–2013 programming period, along with their results. Firstly, it should be emphasised that their implementation relied heavily on the internal resources of the judicial organisation; thus, a total of 109 staff members participated in the three EKOP projects implemented by the end of 2014.⁹⁵

The “Levelező” project⁹⁶ set out six objectives aimed at enhancing the transparency of the courts’ operations and strengthening public confidence in the courts’ work. As a result, the following were implemented:

1. the online submission of administrative complaints (clients can submit their administrative complaints – i.e. those not related to the substantive adjudication of the case – 24 hours a day via an online platform)⁹⁷,
2. online information on the expected duration of proceedings (using the application, it is possible to view – based on statistical data from previous years – the average time taken by a given court to resolve specific types of cases; thus, in civil litigation cases where the claimant can choose from several courts where to bring the action, they can compare the average time required in advance, thereby optimising the duration of the proceedings)⁹⁸,

95 The 2013 report of the President of the National Judicial Office, p. 168.

<https://birosag.hu/beszamolok/az-orszagos-birosagi-hivatal-elnokenek-2013-evi-beszamoloja> Downloaded: 9 March 2024

96 EKOP 2.1.22-2013-2013-0001 Project entitled ‘Expansion of electronic services and optimisation of human resources to improve the timeliness of adjudication’, duration: 1 October 2012 – 19 December 2014, the project was implemented with a grant of approximately 586,000,000 forints.

97 Electronic complaint handling

<https://birosag.hu/nyomtatvanyok/elnoke-panasznyomtatvanyok/panasz-beadvany-kuria-itelotablak-torvenyszekek-reszere> Downloaded: 17 January 2025

98 Procedure duration calculator. <https://eakta.birosag.hu/eljaras-idotartam-kalkulator> Downloaded: 17 January 2025.

3. development of a unified presidential document management system (this system was designed with the specific needs of the courts in mind),
4. laying the foundations for measuring judges' workloads (the application developed provides judges and court administrative managers with information on the expected workload of a case when allocating cases, based on specific characteristics of the initiating document),
5. the standardisation of the courts' internal databases (as part of this, the courts' databases were standardised, making the main court IT application, BIIR, fully interoperable),
6. finally, new computers (1,330 new workstations) and 62 high-capacity servers were procured as part of the project, in order to ensure that the improvements implemented in the courts can be used as widely as possible.

The 'Üzenő' project⁹⁹ serves to facilitate the modern, fast and efficient operation of the courts, resulting in the development of the BIIR system in the following areas:

- development of an alert system (to facilitate the timely adjudication of cases, the system automatically sends alerts to judges and court staff regarding the approach of important deadlines in a given case),
- automatic completion of statistical forms (to reduce the administrative burden on judicial work and improve the accuracy of data entry, the system automatically generates the content of the statistical forms to be completed from previously entered data),
- the development of the management information system (MIS) (as a result of this development, managers can access more accurate and comprehensive statistical data more quickly and conveniently via the MIS, thereby supporting the more efficient performance of their managerial duties),
- and finally, IT equipment was also procured as part of this project (900 new workstations and 1 high-capacity server were acquired) to ensure the most effective utilisation of the development results.

99 EKOP 1.1.16-2013-2013-0001 Project entitled 'Developments in the Integrated Court Information System (BIIR) and the Management Information System (VIR) resulting from legislative changes affecting the court system', duration: 1 October 2012 – 19 December 2014; the project was implemented with a grant of approximately 290,000,000 forints.

The developments carried out under the ‘Hírvivő’ project¹⁰⁰ were designed to enable clients to access information relevant to them as easily and conveniently as possible. The following were implemented as part of the project

- the Court Information System (clients and their representatives – following identification – can view case data relevant to them on a dedicated web interface 24 hours a day, from anywhere, and receive information on who has submitted which documents in the case),
- the Court Notification System (clients and their representatives – following prior registration and identification – can receive notifications via SMS or email regarding any legal developments in their ongoing cases that are not prohibited by the rules of procedure),
- and finally, IT equipment was also procured as part of this project,¹⁰¹ to ensure the most effective use of the development results.

As part of the three EKOP projects concluded at the end of 2014, a more modern BIIR interface was developed to make better use of the developments already described, and a significant portion of the court system’s IT equipment was renewed: it is worth noting that a total of more than 3,000 workstations and 63 servers were procured.

The ‘Printer Replacement Project’¹⁰² has its objective embedded in its name: 233 state-of-the-art multifunctional printers were procured for the commercial courts, replacing the outdated equipment.

III.1.3. Further developments by the end of 2019

In accordance with the provisions of the Partnership Agreement concluded for the 2014–2020 programming period,¹⁰³ an opportunity arose to imple-

100 EKOP-2.A.2-2012-2012-0024. “Court Electronic Information and Alert System”, duration: 1 October 2012 – 19 December 2014; the project was implemented with a grant of approximately 393,000,000 forints.

101 965 new workstations and 6 servers were procured.

102 EKOP-1.1.4-2013-2013-0001 “Extension of the Centralised Government IT System (KKIR2)”, duration: 1 March 2015 – 30 September 2015; the project was implemented with a grant of 45,000,000 forints.

103 SZÉCHENYI 2020. https://archive.palyazat.gov.hu/szechenyi_2020 Downloaded: 9 March 2024.

ment a further project, which was otherwise provided for by Government Decree 1287/2017 (VI. 2.) amending Government Decree 1004/2016. (I. 18.) on the establishment of the annual development framework of the Operational Programme for the Development of Public Administration and Public Services (KÖFOP).

The primary strategic objective of the “Digital Court” project¹⁰⁴ is to simplify access to the courts, reduce the administrative burden and the time and costs incurred by clients in dealing with official procedures. Within this framework, the technical conditions necessary for the unimpeded operation of electronic communication between the court and clients, as well as the further development of electronic case management in an optimal, client-friendly manner, were realised through IT developments.

The developments implemented during the project were as follows:

- Digitisation of court proceedings documents (E-File) and provision of electronic access to court case files
 - digitisation of all documents in the court file,
 - electronic access to case files for judges,
 - provision of online access to documents for clients, independent of time and place.
- Improving the publication and anonymisation of court decisions
 - Further development of the search engine for the Collection of Court Decisions to optimise the browsing and search process for anonymised court decisions,
 - Further development of the programme ensuring the anonymisation of court decisions, and the automation of the anonymisation process.
- Establishing a link between court specialist systems and the Central Government Services Bus (KKSZB): connecting publicly accessible electronic registers with court specialist systems online.

104 KÖFOP-1.0.0-VEKOP-15-2017-00052 “Project for the further digitisation of court administration (Digital Court)”, duration: 2 May 2017 – 31 December 2019; the project was implemented with a grant of approximately 2,500,000,000 forints.

The points outlined above clearly demonstrate that, in this era of constant development and digitalisation, the judicial system must also keep pace. This requires a great deal of development, innovation and the active participation of court staff who are well-versed in judicial and administrative processes. Furthermore, given the nature and scale of these developments, external resources must also be drawn upon, as the necessary funds are not available within the court budget. As the creation of a court IT infrastructure meeting 21st-century requirements, and the development of applications has come to the fore not only in the Member States of the European Union but across the globe, funding opportunities were available which, through purposeful, coordinated work over several years, made it possible to achieve these objectives efficiently and in line with the demands of the times.

It must also be recognised that, without the results of the coordinated development process outlined above, the judicial system would have been unable, or only with great difficulty (and not in all areas), to fulfil its constitutional obligations during the Covid period, as it was these developments that made it possible to transition seamlessly to remote working, which was necessary to reduce the risk of infection (the basis for this was electronic communication and the creation of e-files accessible to courts and clients 24 hours a day, regardless of time or place). As a result, should any unexpected circumstances arise in the future that necessitate remote working, it will be possible to transition seamlessly to predominantly electronic case management, in line with the practices established during the emergency caused by the virus.

Among the current regulations, Section 10(1) of OBH Instruction 17/2014. (XII. 23.) OBH (hereinafter: Beisz.) defines the concept of the BIIR system: it is nothing other than the document management software¹⁰⁵ approved by the President of the OBH to support court administration, adjudication and decision-making processes. According to the classification outlined by Zsolt

¹⁰⁵ Regulation 4/2002 OIT on the uniform document management of courts, which was in force prior to this, refers to this concept without naming it: according to Section 8(1), the registers specified in the Büsz and in this regulation – with certain exceptions – must be maintained electronically, using a computer programme approved by the President of the National Judicial Office.

Zódi, we regard it as a ‘core’ system, as it supports the ‘main activity’ of the court organisation, unlike ‘non-core’ systems, which play a role in relation to its ancillary functions.¹⁰⁶

The BIIR system – as its name suggests – is an integrated IT system capable of managing data relating to litigation cases and – thanks to the developments outlined above – their documents in a unified manner within the same programme. Its scope of application has been continuously expanding; in addition to case metadata, it has become capable of managing procedural documents and even individual court activities and tasks. Thus, the case register, the hearing log and the case relationship system can also be managed within this system.

The BIIR system comprises several components: the National Court Judgments System (BIR-O), the Management Information System (VIR) and the National Register of Defendants (TONY). Data on court cases is contained in the BIR-O subsystem, a computer application supporting the courts’ adjudication activities, which organises data by court and by case type (criminal, civil, labour, commercial, administrative, misdemeanour, penal enforcement, enforcement litigation and non-litigation proceedings). These registers contain the data for individual court cases (parties, details of their representatives, their submissions and documents generated by the court).¹⁰⁷

The BIR-O subsystem comprises several modules organised according to the tasks to be performed, such as the register, the hearing log, document preparation, the document repository module, and the client relations module (ÜKE), which facilitates electronic communication as provided for in procedural laws.

In summary, it can be stated that the most important element of the court digitisation process is the development of an integrated IT system that includes e-files, the modernisation of which – due to technological developments and changes in legislation – is an ongoing task for the present and the future.

106 Zsolt ZÓDI: Courts and Technology. *Bírósági Szemle*, 2020/1. (hereinafter: ZÓDI 2020.) pp. 4–13.

107 KÉKEDI – ZÓDI, op. cit.: p. 51.

III.2. Publication of court decisions and anonymisation¹⁰⁸

In 1995, the Council of Europe adopted recommendations calling for the establishment of appropriate practices for the publication of court decisions,¹⁰⁹ which state, among other things, that knowledge of judicial practice is a fundamental prerequisite for the fair application of the law. In addition, it set out general principles and guidelines to ensure that the systems to be established are objective and representative, and easily accessible to all users.

In Hungary, courts have had a statutory obligation for almost two decades now – since 1 July 2007 – to make certain court decisions available (to publish them) to the public and those seeking justice, for which the obvious solution is to implement this electronically; therefore, as an important element of the digitisation of the courts, we had to examine this in more detail.

III.2.1. The creation of the Collection of Court Decisions, the legal basis

The Collection of Court Decisions (hereinafter: BHGY) was established by Act XC of 2005 on freedom of electronic information, which is no longer in force. In order to ensure widespread access to judicial practice reflecting the application of the law, the decisions on the merits of cases handed down by the Supreme Court and the regional courts of appeal were required to be published provided that an anonymised digital copy of all court decisions and decisions of other authorities or bodies that had been overturned or reviewed by the published court decision must also be published simultaneously.

108 The following will be published: Judit GYARMATHY: The publication of court decisions and its consequences. *Infocommunication and Law* (accepted, forthcoming)

109 Council of Europe Recommendation No. R (95) 11 to member states concerning the selection, processing, presentation and archiving of court decisions in legal information retrieval systems (translated by the author): Recommendation No. R (95) 11 of the Committee of Ministers to member states concerning the selection, processing, presentation and archiving of court decisions in legal information retrieval systems.

[https://search.coe.int/cm/#{%22CoEIdentifier%22:\[%2209000016804f-120c%22\],%22sort%22:\[%22CoEValidationDate%20Descending%22\]}](https://search.coe.int/cm/#{%22CoEIdentifier%22:[%2209000016804f-120c%22],%22sort%22:[%22CoEValidationDate%20Descending%22]})

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A detailed discussion of the principles and constitutional considerations forming the cornerstone of the regulation exceeds the scope of this paper, as the focus here is on the digital solution and its practical applicability. However, it is certainly worth mentioning here that, according to the study by the Eötvös Károly Institute for Public Policy (EKINT) – which drafted the concept of the statutory regulation at the request of the relevant ministry¹¹⁰ –, the most important constitutional justifications for publication are legal certainty (the predictability and foreseeability of the law), freedom of information (as a guarantee of the transparency of the judiciary), as well as equality before the courts and the uniform application of the law.

The statutory framework created on the basis of this concept has since undergone several amendments, but it has stood the test of time – and of constitutionality¹¹¹ –: the current system is, in its fundamentals – including its terminology – virtually identical to the original concept.

In the current system, Chapter XII of the Courts Act, entitled ‘The duties of the courts to ensure the publicity of court decisions: the Collection of Court Decisions’, contains in Section 163 the types of decisions subject to the publication obligation, as well as the exceptions thereto: certain decisions need not be published¹¹², others may not be published¹¹³, and there are decisions to which special rules apply¹¹⁴. For the sake of completeness – since in a significant number of cases the decisions can only be fully understood in the context of their background – in conjunction with the published court decision, an anonymised digital copy of any decision made by a court, other authority or other body that has been overturned or reviewed by the published court decision must also be published at the same time.

When drafting the rules on publication, it was necessary to take into account the principle of freedom of information (transparency and accounta-

110 László MAJTÉNYI – Péter MOLNÁR – Ádám PETRI LUKÁCS – Máté Dániel SZABÓ (eds.): *Freedom of Electronic Information. The Concept of Legislative Regulation on the Publication of Court Decisions*. Eötvös Károly Institute. Budapest 2005. pp. 125–167.

111 The Constitutional Court rejected the motion to annul the rules governing the publication and anonymisation of decisions to be published in the Collection of Court Decisions (Constitutional Court Decision 873/B/2008).

112 Section 163(2)(a) of the Act.

113 Section 163(2)(b) and (c) of the Bszi.

114 Section 163(4) of the Bszi.

bility of the judiciary, and the accessibility of court decisions to ensure consistent case law), whilst at the same time upholding the right to informational self-determination of the parties to the proceedings. Under the provisions of the Data Protection Act in force at the time,¹¹⁵ the obligation to anonymise decisions arose from the primacy of the right to the protection of personal data – in the interests of protecting the parties and those involved in the proceedings. Although the legislation has since changed, and Act CXII of 2011 on the right to informational self-determination and freedom of information (Infotv.) provides for a somewhat different approach – following the EU’s data protection directive at the time¹¹⁶, in accordance with Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (GDPR), by defining the legal basis permitting the processing of personal data – the principles of the regulation remain unchanged from those previously established. The Working Party on Data Protection and Privacy, established under Article 29 of Directive 95/46/EC, in an opinion adopted on 10 April 2014 analysed the effectiveness and limitations of existing anonymisation techniques in the light of the EU legal framework for data protection, and formulated recommendations regarding the application of these techniques, taking into account the residual identification risks associated with each technique.

Under domestic legislation, anonymisation essentially means that the identifying data of persons and organisations involved in the proceedings must be deleted, with the possibility of publishing certain data only in exceptional, precisely defined cases.¹¹⁷

115 Section 4 of Act LXIII of 1992 (Avtv.) The right to the protection of personal data and the data subject’s rights to privacy – unless otherwise provided by law – shall not be infringed by other interests relating to data processing, including the disclosure of data of public interest (Section 19).

116 Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (repealed by Regulation (EU) 2016/679 of the European Parliament and of the Council).

117 Márton SCHULTZ: Current issues in anonymisation and re-identification, with particular regard to rendering court decisions unrecognisable. In his article published in issue 7/2024 of *In Medias Res* (pp. 92–111) (hereinafter: SCHULTZ), he analyses methods of rendering court decisions unrecognisable. See: Gábor MARÓTI: Procedural factors relating to the defendant’s absence in a matrimonial action seeking to examine the validity of a marriage:

The question usually arises¹¹⁸ that since the Subchapter 52 of the Courts Act expressly refers to the protection of personal data in the context of the publication of court decisions, the anonymisation process does not distinguish between natural and legal persons, providing for the deletion of the data of the latter under the same subchapter. Looking at the published decisions, we mostly see the deletion of data relating to legal persons; only in exceptional cases do we find a published decision containing such data.¹¹⁹

The provision that anonymisation must not prejudice the established facts serves the purpose of uniform application of the law. Indeed, the facts must be clearly discernible from the published decision, as in this way it is possible to track the specific judicial practice regarding the application of individual legal provisions in relation to the given facts. The rule that no further editing may be carried out in the text of the decision beyond anonymisation serves the same purpose;¹²⁰ and any corrections or additions to a decision that has already been published must also be recorded in the BHGY.¹²¹

As a general rule, the following shall not be deleted from the published decision:

- a) the name and position of the state or local government body, or any other body or person performing public duties as defined by law,
- b) the name of the lawyer or bar counsel acting as representative, and the name of the defence counsel,

A synthesis derived from the analysis of anonymised judicial decisions. *ACTA TRIBUNALLIA: Collection of Decisions of the Diocesan Court of Győr*. Paper: 2019/2, pp. 1–2. International perspective: Márta GÖRÖG: The practice of anonymising court judgments in German and Austrian courts. *Infokommunikáció és Jog*. 2013/2, pp. 81–84.

118 Zsolt György BALOGH: Regulation of the publication of court decisions in Hungary. *Information and Law*, 2013/2, pp. 84–89.

119 Anonymised judgment of the Pécs Regional Court, case no. 25.K.700.880/2022/31-2: <https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?courtName=Pécs%20Regional%20Court&caseNo=K.700880/2022/31&id=e2752022-6be3-4e3f-be8c-ac326600566c> Downloaded: 24 March 2024 and the anonymised judgment of the Szeged Court of Appeal, case no. Pf.II.20.435/2013/6: https://eakta.birosag.hu/anonimizalt-hatarozat-pdf/?courtName=Szeged%20Court%20of%20Appeal&caseNo=Pf.20435/2013/6&identifier=AHK4T__13912312 Downloaded: 24 March 2024

120 Section 166(6) of the Civil Procedure Act

121 Section 164(2) of the Bszi.

- c) the name/registered office of the person who lost the case as the defendant, if the decision was made in a case where, under the law, there is scope for the enforcement of a claim in the public interest,
- d) the name, registered office and name of the representative of the association or foundation,
- e) information that is in the public interest.

A special rule applies where the public has been excluded from all or part of the hearing (in which case publication must be omitted; if the decision has already been published, it must be deleted; furthermore, the law also stipulates that the protection of classified data must be ensured, and such content therefore constitutes an obstacle to publication.

To enable searches among published decisions, each decision must indicate the court that issued it (including the presiding judge and members of the judicial panel), the area of law, the year the decision was made, and the decision's serial number. In addition, at the time of publication, the legal provisions on which the court based its decision must be indicated.

III.2.2. Method of anonymisation: automation and human intervention

The Act establishing the BHGY already stipulated that the OIT Office, which was then responsible for the administration of the courts, was tasked with operating a shared database containing court decisions, whose content was uploaded by the relevant courts in accordance with the provisions of OIT Regulation 3/2007 on the performance of tasks incumbent upon the courts in connection with the publication of the Collection of Court Decisions, pursuant to Act XC of 2005 on Electronic Freedom of Information (hereinafter: the Regulation). The Regulations specified the text format (Rich Text, i.e. RTF format), which had to be uploaded using the BIIR's anonymisation software (Anonymisation Module) and then approved in the Central Repository of Anonymised Decisions (AHKAT). The anonymisation of court decisions was the responsibility of the court that issued the decision (the data controller), and internal work processes – at the (then) Supreme Court, the regional courts and the county (capital) courts – were regulated independently.

With the entry into force of the Courts Act, this Act on the organisation of the courts now expressly lists, amongst the information-related duties of the President of the National Judicial Office responsible for the administration of the courts, the responsibility for publishing the BHGY,^{122a} a database which is, incidentally, available on the website www.birosag.hu.¹²³

All court decisions containing a substantive ruling must be anonymised; of which those designated for publication in the Courts Act must be published in the BHGY, whilst substantive decisions not falling within the former category are made electronically accessible to court users in the Internal Decisions Repository (BHT), which forms part of the Judgment Support System (hereinafter: ITR).

Detailed provisions regarding the performance of the tasks incumbent upon the courts in connection with the anonymisation and publication of court decisions are currently set out in OBH Instruction 4/2021 (12 March) (hereinafter: anonymisation rules).¹²⁴ As IT developments have progressed in the meantime – see below for details – it has become necessary to clarify certain concepts and draw up further detailed rules in order to ensure the uniform implementation of the process. With regard to the BHGY, it states: this is a digital collection of anonymised court decisions which is accessible to anyone under the same conditions, without personal identification, without restriction and free of charge, via the courts' central website. It defines anonymisation as a process whereby personal and other protected data in the document that would allow the identification of the person involved in the proceedings are removed or replaced with data that prevents identification, and the metadata relating to the decision are recorded. The metadata comprises the case file, the relevant legal provisions, their current status, keywords, and a summary of the decision's substantive content (or,

122 Section 76(8)(d) of the Bszi.

123 E-file on the courts' central website:

<https://eakta.birosag.hu/anonimizalt-hatarozatok>

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124 For the preceding period, see: OBH Instruction No. 13/2016. (22 December) OBH on the performance of tasks incumbent upon the courts in connection with the publication of the Collection of Court Decisions, and OBH Instruction No. 26/2019. (25 November) on the performance of tasks incumbent upon the courts in connection with the anonymisation and publication of court decisions.

in the absence thereof, a brief summary). ‘Anonymisation’ under the Courts Act and the anonymisation policy thus essentially combines the methods of de-identification and generalisation¹²⁵ : by removing unidentifiable data (de-identification) and by designating individuals according to the role they played in the proceedings (generalisation).

One of the most important elements of the project entitled ‘Further digitisation of court administration (Digital Court) to achieve faster and more efficient court administration’ was the development of the publication and anonymisation of court decisions; within this – with the involvement and active participation of judges, and judicial staff – the BHGY search engine was further developed to optimise the browsing and search process for anonymised court decisions, as well as the further development of the programme ensuring the anonymisation of court decisions and the automation of the anonymisation process.

These improvements are enabled by artificial intelligence-powered decision search licences, which optimise searches, continuously ‘learn’ from the results, and deliver increasingly accurate hits. During the development, a repository of court decisions (a continuously expanding database) will be created, based on uniform principles and accessible to judges and legal researchers regardless of time and place, which serves both to facilitate the delivery of high-quality court decisions and to establish a uniform case law.

Thanks to the development completed in 2019, the entire process (the anonymisation of decisions, the approval of the anonymised decision, and its publication and making it accessible) must be carried out using the anonymisation programme operating within the ITR, rather than the now obsolete AHKAT. A prerequisite for this is that the decision to be anonymised must be drafted using the ITR’s court decision drafting programme, or the text of a decision drafted elsewhere must be subsequently entered into it.

Through automation, the digital system essentially identifies and removes data within the ITR’s anonymisation programme that could enable the identification of the individual in question, and replaces the necessary data with a term corresponding to the role played in the proceedings (e.g. claimant,

125 SCHULTZ, op. cit., p. 95.

witness) as substitute text.¹²⁶ Under the anonymisation policy – as a general rule – the anonymisation of decisions is carried out by a judicial staff member assigned to the council and holding an anonymisation role,¹²⁷ which in practice means that they review the data identified by the programme as requiring removal, as well as the replacement text, and then accepts them or, if necessary, modifies or deletes them, and identifies any additional text units requiring anonymisation that were not recognised by the programme, and determines the replacement text. In addition, they record the relevant statutory provisions set out in the decision, their current status, and – in the case of decisions of the Supreme Court and the Court of Appeal – record in the anonymisation programme the summary provided by the chair of the council regarding the substantive content of the decision, or, in the absence thereof, a brief summary of.¹²⁸ Approval of anonymisation – that is, its finalisation and, in this way, making it accessible – is the responsibility of the chair of the council that issued the decision, provided that, in the case of the decision in question, the person carrying out the anonymisation and the person approving it cannot be the same person.¹²⁹

It is evident that the domestic system, developed with the involvement of judges and judicial staff who actually use the system on a daily basis and drawing on their previous experience, combines both automated and manual anonymisation, in order to ensure that any data requiring removal or replacement that may not have been identified by the machine can be rendered sufficiently unrecognisable.¹³⁰ It is clear from the above description of the process that the use of the IT programme significantly facilitates the anonymisation process, particularly in the case of large-scale decisions requiring anonymisation, by identifying the text to be removed or replaced and

126 Anonymisation Rules, Section 10(2)

127 Anonymisation Rules, Section 9(3)(b).

128 Section 12 of the Anonymisation Rules.

129 Anonymisation Policy, Section 9(3)(c) and Section 9(4)

130 See in this context: ‘Anonymisation/pseudonymisation is more effective when supported by an algorithm. However, human oversight is necessary, as algorithms do not understand context.’ EU Justice Scoreboard 2020, p. 30.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=CELEX:52020DC0306>

Downloaded: 6 September 2024

the relevant legal provisions. The personal interviews also reflected that¹³¹ even the use of earlier, even more outdated systems greatly aided the process, but the introduction of software capable of automatic anonymisation brought significant relief – in terms of improved quality and time savings.

Taking European experience into account, the domestic regulations are particularly forward-looking: the publication of specific decisions has been taking place for two decades now, so access to decisions has been widely ensured for a long time. In my opinion, the anonymisation method used is also appropriate; it is justified to review the draft prepared automatically by machine to ensure full compliance with the legislation – namely, the removal of data enabling personal identification or the replacement of such data with information that prevents identification. As the review is carried out by a person familiar with the decision in question, the time required for the operation is also shorter.

An interesting legal issue has arisen in connection with anonymisation. The plaintiffs brought an action against the defendant courts because, in another court case, the court hearing the case had obtained the final judgment issued in their case, which the requested court had sent in an unanonymised form, thereby making their data known to the parties in that proceeding. The claim was found to be unfounded at both first and second instance, given that, during the proceedings, neither the requesting nor the sending court is required to anonymise documents sent by another court at the request of the court; in this case, the provisions of Sections 163 and 166 of the Courts Act 163 and 166 of the Courts Act.¹³²

III.2.3. Access to precedent decisions of the Supreme Court

With the entry into force of the Ejhtv., the possibility of accessing court decisions – particularly those of the Curia – has gained even greater significance. The Ejhtv. amended the Courts Act in several respects; according to the explanatory memorandum of the final proposer, which is relevant to our

131 See: Section VI.3.

132 Győr Court of Appeal Case No. 20.041/2018/8.

topic, uniform legal practice in accordance with the Fundamental Law is ensured primarily not by administrative means, but by the binding force of the Supreme Court's decisions. The Supreme Court's most important task, as prescribed by the Fundamental Law, is to ensure legal uniformity and a consistent judicial practice across the courts. The courts are obliged to follow the Supreme Court's interpretation of the law, although lower courts – provided they give reasons for the deviation – may deviate from the Supreme Court's interpretation of the law if justified by the circumstances of the case or by consistency with the Fundamental Law; naturally, ordinary and extraordinary remedies are available against such a decision (the so-called limited precedent system). In addition, the institution of the complaint regarding the uniformity of law was introduced as an independent, *sui generis* remedy – in cases of deviation from the decisions of the Curia.

The next significant amendment was introduced by Act CLXV of 2020 on the amendment of certain laws relating to the administration of justice, the provisions of which expanded the scope of decisions to be published in the BHGY: from 1 January 2021, the Curia must now also publish its decisions setting aside previous rulings, the rationale being that such decisions set out the grounds for rejecting the legal interpretation of the ruling being set aside. Another new provision, designed to facilitate the application of the BHGY, is that alongside the decision published by the Supreme Court, its substantive content or a summary thereof, as well as the applicable legislation, must also be indicated. This rule shall apply to decisions handed down after 1 January 2021, provided that – in order to ensure the uniform presentation of all precedent-setting decisions in the BHGY and to facilitate searching – the Supreme Court's precedent-setting decisions, i.e. those handed down between 1 January 2012 and 31 December 2020 and published in the BHGY, the decision's substantive content must also be indicated; in the absence of this, a brief summary of the content and the applicable legislation must be provided.¹³³

It is readily apparent that, in view of these new rules, it has become essential for courts and clients to have the easiest possible access to the de-

133 The disclosure was made in accordance with this provision by the deadline specified in Section 197/C(2) of the Bszi. – 31 December 2023.

cisions of the Supreme Court (i.e. those handed down after 1 January 2012 and published in the BHGY), and for searching amongst them to be as efficient as possible. Essentially, providing electronic access to decisions must serve the purpose of making judicial practice accessible and ensuring the uniform application of the law.

The BHGY is also an essential tool for legal representatives, so comments from them cannot be ignored; notably, following the completion of its development in 2019, the BHGY has become more user-friendly, but lawyers primarily use it to search for specific decisions they have read elsewhere (e.g. in specialist articles, books or electronic legal databases).¹³⁴

Navigating court decisions by case number is, in practice, rather cumbersome (as the case number is not known to persons not involved in the case); therefore, effective search functionality must be provided for the text of individual decisions and – more importantly from the perspective of uniform application of the law – for the legal provisions on which the decision is based. This is reflected in the rule whereby the President of the National Judicial Office ensures that the BHGY allows searches for the text of decisions and the relevant legal provisions.¹³⁵ Furthermore, the deletion of data enabling the identification of persons appearing in published decisions – and the designation of such persons in accordance with their role in the proceedings¹³⁶ – can best be achieved using IT (electronic) tools.

Searching the BHGY has therefore become a familiar, everyday activity for those seeking legal information, yet it is regularly criticised: it is difficult to find Supreme Court decisions that are relevant to a given piece of legislation and have precedential value. According to András Osztovits¹³⁷, a collection containing thousands (38,800 at the time of his article) of Supreme Court decisions “without any form of processing or or grouping”, in this form “presents the entire legal profession with an unsolvable situation”, as judges and legal representatives must open,

134 Miklós BORONKAY: The ‘limited precedent system’ from a lawyer’s perspective. *Civil Law*, 2022/11-12.

135 Section 165(3) of the Bszi.

136 Section 166(1) of the Civil Procedure Code

137 András OSZTOVITS: Legislative amendment to standardise judicial practice – a misstep in the right direction? *Magyar Jog*, 2020/2, pp. 72–80.

read and select the hits applicable to the case in question one by one, each presumably relating to a specific provision of law.¹³⁸ Since the article was written in 2020, a change has been made to facilitate searching, as described above: alongside every decision published by the Supreme Court, its summary or brief content is now displayed, along with the applicable legislation. In practice, since the beginning of 2024, this content has also been appearing in the search results alongside the Supreme Court decisions. Furthermore, individual decisions appearing in the search results no longer need to be downloaded; instead, they can be opened in a preview mode without downloading, thereby enabling a quick overview and the downloading of only those results (decisions) that are relevant in a given case.

I find András Osztovits's observation in the aforementioned article to be valid, namely that locating relevant, citable decisions is a highly time-consuming process, and the untenability of 'unlimited citation possibilities' may arise. In contrast, however, it may be argued that the phenomenon of Big Data is now unavoidable in the application of the law as well: this term refers to the enormous volume of data generated on the internet, which provides a wide range of information about society and the world.¹³⁹ Although the term is mostly used in the context of computer networks and social media, I agree with Zsolt Zódi, whose line of reasoning¹⁴⁰ suggests that the ever-increasing number of decisions published in the BHGY also falls within this category; these are available as open data and, as such, can be analysed and processed without restriction. In my view, it is natural that the uses of this data can be very diverse: it is well known that the database is used in the application of the law, in activities to standardise legal practice, and in the Supreme Court's analysis of legal practice, but there is

138 See also: Zsolt ZÓDI: The practice of citing court judgments in the light of statistics. *Explanation of Legal Cases*, 2012/3., Zsolt ZÓDI: Patterns of references to previous cases in court judgments. *MTA Law Working Papers*, 2014/1., NAGY Adrienn – TÓTH Csaba: New directions in ensuring the uniformity of legal practice: the introduction of a limited precedent system in Hungary. *Publicationes Universitatis Miskolcensis, Sectio Juridica et Politica*, Tomus XLII/1. 2024. pp. 114–115.

139 The impact of this phenomenon on law and legal scholarship is analysed by ZÓDI 2017, op. cit., pp. 95–114.

140 Zsolt ZÓDI: The database of court judgments as big data. *Statisztikai Szemle*, 2017/5, pp. 505–513.

also a great need for it in the legislative process: ex-ante and ex-post impact assessments in the legislative process require an examination of the application of legislation once it has come into force, which is most clearly reflected in court decisions that interpret the law. For this very reason, I do not support any form of filtering or selection by the courts of the legal cases that are published – particularly with regard to the precedent-setting decisions of the Supreme Court, the Kúria. To produce more effective search results tailored to specific purposes, it would be necessary to focus on developing search engines and prioritising solutions based on artificial intelligence; where appropriate – in line with the needs of the legal profession – this could also be achieved through services provided by market operators.

Publication on the BHGY has not only simplified access to decisions and searching among court rulings, but has also facilitated multi-faceted, academic research into them. A network science analysis¹⁴¹ has now been carried out on the citation network of the Supreme Court’s civil and commercial decisions handed down between 2012 and 2022 – specifically, the way they cite one another – which, among other things, confirmed the initial expectation that, since the introduction of the limited precedent system, the number of references to decisions published in the BHGY has increased significantly in the legal reasoning of the Curia’s decisions. This research highlights in particular that the database of decisions – which is easily accessible electronically, well (and increasingly) searchable, and constantly expanding – constitutes an essentially inexhaustible repository not only for legal representatives and citizens seeking legal advice to navigate issues of law application within the framework of enforcing claims before the courts, but also facilitates the application of innovative methods in academic research.

141 Ádám AUER – Ferenc CSIBOR – Katalin OROSZ – Péter POLLNER: The impact of the limited precedent system on citations in Supreme Court judgments. *Journal of Legal Science*, 2024/5, pp. 224–235. See also: Bálint BASSOLA – Kristóf CSILLIK: A lack of coherence in the limited precedent system? – Certain anomalies in the regulation of applications for review submitted on the grounds of a divergence from a published decision of the Supreme Court on a point of law. *Civil Law*, 2023/9–10.

III.2.4. The consequences and utilisation of widespread publication

However, it must not be overlooked that one consequence of widespread publication is the possibility of profiling judges. This issue has arisen worldwide where court judgments – e.g. in the United States (with certain exceptions¹⁴²) – the full case file is published on the internet via the PACER (Public Access to Court Electronic Records) system¹⁴³ – thereby opening up the possibility of analysing them from numerous perspectives. The market has recognised the need for multi-faceted analysis of this data set, and so various services are available online for this purpose – e.g. to examine what arguments and reasoning underpin decisions of a particular type, and what the content of those decisions is.¹⁴⁴ It is easy to see that, because the judge's name is published, a wide range of conclusions can be drawn from that judge's previous decisions; their conduct of proceedings can be analysed; and the soundness of their decisions, their frequently used phrases and their reasoning can be tracked.

One example is the research by Langford, Behn and Lie, which was the first to provide a comprehensive, empirical analysis of the individuals comprising the entire investment arbitration 'community': in the course of their work, they examined 1,039 investment arbitration cases and, by mapping the relationships between the 3,910 individuals comprising the 'community', carried out a social network analysis, drawing conclusions not only

142 For details, see: Zsolt ZÓDI: The public nature of court decisions and documents in certain common law countries and in the courts of the EU. *Infocommunication and Law*, 2013/2. pp. 76–80.

143 PACER (Public Access to Court Electronic Records) – Public access to court electronic records (translated by the author) <https://pacer.uscourts.gov/> Downloaded: 20 March 2024.

144 Lex Machina – a company producing legal analyses (Inc. – a public limited company), operating as a 'division' of the US data analysis company LexisNexis (translated by the author), see in more detail: KÁLMÁN Kinga – KISS Laura Olga – SZENTGÁLI-TÓTH Boldizsár: Artificial intelligence-based software in the world's courts: practical experiences, perspectives. In: Zsolt Zódi (ed.): *Legal technologies. Digital law enforcement*. Ludovika University Press. Budapest, 2022. (hereinafter: KÁLMÁN) pp. 113–114.

<https://lexmachina.com/> Downloaded: 20 March 2024.

Leah Legal – a generative legal assistant service for companies and law firms, including the analysis of publicly available court decisions (translated by the author).

<https://premonition.ai/> Downloaded: 20 March 2024.

about the functioning of investment tribunals but also about the roles of individual members.¹⁴⁵

There has recently been considerable controversy over the fact that France – the first country in the world – has made ‘judicial profiling’ a criminal offence.¹⁴⁶ Amendments made in 2019 to the French Judicial Organisation Act and the Code of Administrative Justice¹⁴⁷ introduced provisions stipulating that the personal data of judges – and prosecutors – may not be used for any reason or purpose that leads to the evaluation, analysis or prediction of their anticipated professional decisions or practices.¹⁴⁸ Under the provisions of the French Criminal Code (Code Penal), “The collection of personal data by fraudulent, dishonest or unlawful means is punishable by five years’ imprisonment and a fine of €300,000.”¹⁴⁹ Several concerns may be raised regarding this regulation, for example concerning the infringement of freedom of expression, namely whether this restriction is justified in order to preserve the authority of judges and courts, in relation to data that has already been made public, and whether the regulation is proportionate, given that it criminalises not only commercial but also any data collection (including for research purposes).

Currently, there is no similar prohibitive regulation in our country, but the significance of publication, the preservation of this achievement (access to justice, transparency, and the unity of legal practice) may, in the future –

145 LANGFORD, Malcolm – BEHN Daniel – LIE, Runar Hilleren: The Revolving Door in International Investment Arbitration (translated by the author), *Journal of International Economic Law*, Volume 20, Issue 2, June 2017, pp. 301–332.

146 LANGFORD, Malcolm – MADSEN, Mikael Rask: *France Criminalises Research on Judges. (France criminalises research on judges’ profiles – translated by the author)*. *VerfassungsBlog*, 22 June 2019, <https://verfassungsblog.de/france-criminalises-research-on-judges> Downloaded: 20 March 2024.

147 Act No. 2019-222 of 23 March 2019 on the 2018–2022 judicial reform (translated by the author).

https://www.legifrance.gouv.fr/jorf/article_jo/JORFARTI000038261761. Downloaded: 20 March 2024.

148 Code of Judicial Organisation and Code of Administrative Justice (translated by the author).

Code de l’organisation judiciaire L111-13, Code de justice administrative L10

149 Penal Code (France):

https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006070719/LEGISCTA000006149831/#LEGISCTA000006149831 Downloaded: 20 March 2024

if necessary, particularly in the interests of judicial independence – justify the creation of a rule protecting judges, similar to the French legislation, in light of the advance of artificial intelligence.¹⁵⁰

In this context, we also note that the publication of edited court decisions (the so-called ‘BHs’) in the journal *Kúriai Döntések* (Supreme Court’s Decisions) – although it has historical precedents – has also raised questions in the recent past.¹⁵¹ In this context too – in my view – it would be worthwhile to dispense with selection and editing (as subjective elements), and the journal could serve as a forum for publishing the case numbers and substantive content (brief summaries) of the most recent Supreme Court decisions published in the BHGY that month. In this way, both judges and those seeking legal advice would be informed of all new decisions, to which – apart from anonymisation – they can have unrestricted access in the BHGY.

The need for the anonymisation of decisions has recently arisen from another perspective as well. The Minister responsible for justice has a duty under the Act on Legislation to monitor the implementation of legislation falling within his remit and to compare the effects anticipated at the time of drafting the legislation with the actual effects (ex-post impact assessment¹⁵²).

In connection with the effective performance of this task, Section 53(1) of Act XVII of 2024 on the amendment of laws relating to the administration of justice expanded the scope of the President of the National Judicial Office’s duties regarding the provision of information. Accordingly – in accordance with the explanatory memorandum, with a view to gaining an understanding of judicial decisions, judicial and thus primarily judicial decisions – at the request of the Minister responsible for justice, for the purposes of preparing legislation and examining the implementation of legislation, as well as all decisions issued by courts, other authorities or bodies that have been

150 For a detailed discussion of the complexity of the issue, see: Endre Győző SZABÓ: Legal analysis of data protection in relation to new technologies. In: Tamás Klein – András Tóth (eds.): *Robot Law – Cyber Law*. Wolters Kluwer Kft. Budapest, 2018. pp. 26–67.

151 Statement by the President of the Curia on the investigation concerning the journal *Curia Decisions – Court Rulings*, 26 February 2024.

<https://kuria-birosag.hu/hu/sajto/kuria-elnokenek-tajekoztatoja-kuriai-dontesek-birosagi-hatarozatok-folyoiratot-erinto> Downloaded: 20 March 2024.

152 Section 21(1) of Act CXXX of 2010 on Legislation (Jat.)

overturned or reviewed by a final or conclusive court decision.¹⁵³ In connection with this new task, the Courts Act also notes that if the decision requested in the enquiry has already been published in the BHGY, the decision published in this way must be made available; otherwise, it must be rendered unidentifiable by applying the relevant rules.¹⁵⁴ The ITR anonymisation programme is also well suited to fulfilling this additional task; in its Internal Decision Repository (BHT) – with a view to facilitating and standardising the application of the law by the courts – decisions not published in the BHGY can already be found in anonymised form,¹⁵⁵ thus making them available in this form within a short time to fulfil the obligation prescribed by law.

III.3. Key stages of the digitisation process: electronic company proceedings and payment order cases

In this monograph, I primarily present the digitisation of civil court proceedings; however, this section will discuss two types of proceedings that do not fall within this scope, yet cannot be omitted as they represent important milestones in this process.

III.3.1. The first and currently only court procedure that is fully digitised in every respect – company proceedings

From the perspective of the economy's functionality and competitiveness, the simplicity and clarity of the rules governing the incorporation, operation and registration of changes to companies are of fundamental importance, as they ensure that the administrative burden involved in the process is kept to a minimum. One of the most important indicators of competitiveness is the speed of company procedures (incorporation, registration of changes, etc.).

153 Section 76(8)(g) of the Bszi., effective from 9 July 2024.

154 Section 76(13) of the Bszi., effective from 9 July 2024.

155 Section 3(1)(4) and Section 6(2) of OBH Instruction 4/2021 (12 March) on the performance of tasks incumbent upon the courts in relation to the anonymisation and publication of court decisions

In this area, by applying modern technological advances – following the clearance of a significant backlog through intensive efforts – digitisation began relatively early, in 2005, becoming the first of all court proceedings to go fully electronic; today, it faces a further significant challenge due to plans for a unified legal entity registration system. The relatively rapid digitisation in this area – alongside meeting competitiveness criteria and market demands – is primarily due to the fact that company proceedings – unlike, for example, civil litigation – are based on a unilateral application, meaning there is no opposing party and the proceedings are not adversarial. Furthermore, the progress of digital development has been facilitated by the requirement for mandatory legal representation, as well as by the fact that legal representatives and the court use electronic signatures.¹⁵⁶

It can be said that the solutions provided by domestic legislation are modern even by European standards, to such an extent that the recently implemented Digital Directive – Directive (EU) 2019/1151 of the European Parliament and of the Council (20 June 2019) amending Directive (EU) 2017/1132 as regards the use of digital tools and processes in the field of company law – did not necessitate any significant amendments.¹⁵⁷

It is worth briefly mentioning the most important steps in the process.¹⁵⁸ Act V of 2006 on company disclosure, court company proceedings and winding-up (hereinafter: Ctv.) introduced significant innovations, re-regulated and made company proceedings more transparent. From 1 July 2006, it enabled all business associations to conduct company registration and amendment registration procedures electronically, and then extended the option of electronic company registration to all other forms of company from 1 January 2007.

156 The authors analyse the issues and describe the impact of electronic company registration: Erzsébet SÜLINÉ Tőzsér – Marianna DZSULA: Abakusz – electronic company registration in Hungary. *Magyar Jog*, 2008/9, pp. 608–612, DZSULA

Marianna: Electronic company registration and its impact on public credibility. *Acta Convexus de Iure Civili* Tomus X., 2009, pp. 225–245.

157 Judit GÁL: New Directions for Registration Systems – On the Registration of Legal Entities. *Economy and Law*, 2023/1-2, pp. 20–23.

158 For further details, see: László ORMAI: The impact of digitalisation on domestic electronic company procedures. In: Zsolt Ződi (ed.): *Legal technologies. Digital law enforcement*. Ludovika University Press. Budapest, 2022. pp. 371–399.

Pursuant to Act LXI of 2007 amending Act V of 2006 on company disclosure, court proceedings concerning companies and winding-up, and other acts, from 1 July 2008, company registration and amendment registration procedures – first-instance proceedings – may be conducted exclusively by electronic means for all companies.¹⁵⁹ Subsequently, Section 367 of Act CLVI of 2011 on the amendment of certain tax laws and other related laws extends this rule to second-instance proceedings as well, meaning that from 1 January 2012, second-instance proceedings are also conducted exclusively electronically. Naturally, this required the availability of the appropriate electronic forms (applications, annexes) and the necessary digital infrastructure at both the courts and on the clients' side.

The next important step was Section 112 of Act CCLII of 2013 amending the Ctv. and introducing amendments to certain laws in connection with the entry into force of the new Civil Code, which, from 1 July 2014, enabled electronic communication to be initiated in judicial review proceedings as well. Over the years, the company register has been linked to other official registers (e.g. the personal data and address register, the criminal records register, and the EU registers on money laundering and counter-terrorism), and the number of automated procedures has also increased; in this latter area, a significant change came into effect on 1 July 2018: Section 34 of Act CLXXXVI of 2017 on the amendment of laws relating to the reduction of administrative bureaucracy and the simplification of certain administrative procedures was introduced to further reduce administrative burdens and ensure faster and more efficient administration.

159 The impact on competitiveness was strikingly evident in the report entitled *Doing Business Index*, published by the World Bank (which has since been discontinued). In the ranking assessing the quality of the business environment, Hungary was ranked 91st in the list published in 2007, and by 2009 had risen to 41st place. Source:

Doing Business 2008 Hungary, The International Bank for Reconstruction and Development / The World Bank, Washington DC, 2007, p. 9 (translated by the author).

<https://documents1.worldbank.org/curated/en/460631468282570406/pdf/425750WP0Doing10080Hungary01PUBLIC1.pdf> Downloaded: 29 July 2024; Doing Business, 2009. The International Bank for Reconstruction and Development / The World Bank, Washington DC, 2008, p. 6. (translated by the author).

<https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB09-FullReport.pdf> Downloaded: 29 July 2024.

Although experience shows that the operation of the domestic company register is swift, seamless and in line with modern requirements, a need has arisen in the last decade – following international examples – for the public registration of legal entities (company register, register of associations, register of civil organisations, registers of other legal entities – e.g. investment data, law firms, etc.) on a unified platform.¹⁶⁰

Act XCII of 2021 on the Register of Legal Entities and the Registration Procedure (hereinafter: *Jsznytv.*), which is due to come into force on 1 July 2023 – given that the unified register of legal entities to be introduced by the *Jsznytv.*, requires a longer period of preparation for the introduction of uniform and expedited procedural rules, including automated decision-making – has been postponed to 1 January 2026; consequently, the task for the near future is for the courts to prepare for the application of the new rules.

As regards the significant changes related to this and affecting the court system, the Government's 2025 spring legislative programme¹⁶¹ includes the submission of a bill on the registration of legal entities, stating as the objective of the legislation that a new law is required, based on the fundamental principles of the Act on the Register of Legal Entities, but prescribing official registration and registration entries instead of court-maintained records. Plans also include the submission of a draft bill on certain court proceedings relating to legal entities and on the winding-up of the Act on the Registration of Legal Entities. The aim of this legislation is to establish, alongside the statutory provisions governing the register of legal entities to be created as an official register, a new law on the supervision of legality remaining within the non-contentious jurisdiction of the courts, as well as on certain other non-contentious and contentious proceedings.

The Minister of Justice's announcement on the concept for the establishment of a unified register of legal entities was published in the Hungarian Official Gazette on 4 April 2025.¹⁶² It sets out the main cornerstones of the

160 Kinga PÁZMÁNDI: The registration system for legal entities in certain Member States of the European Union and in Hungary. *Magyar Jog*, 2015/4, pp. 202–209.

161 The Government's Spring 2025 Legislative Programme, points 11 and 12.

https://www.parlament.hu/documents/d/guest/tvalk_program_2025-tavas Downloaded: 17 March 2025.

162 *Hungarian Official Gazette*, 2025, No. 18, pp. 1707–1713.

official register to be established; the procedures remaining within the jurisdiction of the courts, as well as the new non-contentious procedures; and the individual steps involved in developing the legal regulatory framework. Based on the concept, it is clear that the currently separate registers of legal entities will be gradually integrated to create a unified state register.

Under this concept, the aim is to separate legality and registration tasks, with the maintenance of the register – matters relating to which become administrative authority matters – generally being carried out through automated decision-making. Legality supervision proceedings and proceedings for dissolution without a legal successor will remain within the jurisdiction of the courts.

It is not yet known whether legislative preparations have commenced following the drafting of the concept; presumably, in accordance with Section 76(1)(e) of the Courts Act, the courts will provide their opinions on the draft legislation. Among the expected benefits of the regulation, it may be noted that a unified register of legal entities, through the linking of state registers and the accuracy of data resulting from uniform and swift procedural rules, is capable of enhancing the competitiveness of the economy; furthermore, the automation of work processes and the reduction of the administrative workload on judges increases the time available for substantive work. A disadvantage, however, is that a category of cases traditionally handled by judges for decades will be moved outside the framework of the court system, where the accumulated knowledge and experience will not be able to be fully utilised in the future. Furthermore, the existing IT infrastructure, which functions well and meets modern requirements, will likely need to be completely replaced. Furthermore, the preservation of procedural guarantees in court proceedings must also be ensured. All of this may present a serious challenge to the legislator, as a completely new system will have to be regulated and built within a new framework, replacing a system that has been functioning well and efficiently for decades.

III.3.2. The first step in the digitalisation process – bringing payment order cases within the jurisdiction of notaries

Introduced 130 years ago – but with roots in Hungarian law stretching back centuries – see: Act LXXX of 1563 – the so-called judicial order (*mandata juridiciaria*)¹⁶³ – the fundamental aim of the order for payment procedure is to facilitate the enforcement of presumably uncontested monetary claims through an out-of-court, cheaper and faster procedure. The most significant domestic legislative steps in this area, from the perspective of our topic, took place in 2008 and 2009 with the aim of making the procedure even more cost-effective and faster, and of relieving the burden on the courts – in parallel with the emerging need to utilise modern technical tools. The immediate precursor to these was Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure, which also allowed applications to be processed electronically.¹⁶⁴

First, Act XXX of 2008 amending Act III of 1952 on the Code of Civil Procedure and certain related acts (hereinafter: Act XII Ppn.) – whilst retaining the paper-based procedure – established the automated conduct of the order for payment procedure and, as part of this, the possibility of submitting applications for an order for payment electronically.

Under the new regulations, in the order for payment procedure, the court may use automated data processing and computerised tools for procedural steps that do not specifically require human intervention (automated order for payment procedure). If the application for a payment order is submitted electronically using the electronic form specified in the decree of the Minister of Justice, in this case the court shall proceed by means of automated

163 Viktória HARSÁGI: An overview of the history of the Hungarian order for payment procedure from 1893 to the present day. *Iustum Aequum Salutare* 2012/3-4, p. 224.

164 Pál Emil MÉSZÁROS: Regulation (EC) No 1896/2006 of the European Parliament and of the Council establishing a European order for payment procedure. In: Pál Emil Mészáros – Nárcisz Projics (eds.): *European Civil Procedure Law*. Faculty of Law and Political Sciences, University of Pécs. Pécs, 2022. pp. 63–70; Álmos Lukács NAGY: The European order for payment procedure and issues arising from its application in Hungary. In: Balázs Bodzási (ed.): *Proceedings of the Hungarian Lawyers' Association*. Hungarian Lawyers' Association. Budapest, 2022. pp. 351–383.

data processing using computerised tools, and must process it electronically within 3 days using a nationwide computerised system (instead of the 30-day deadline previously applicable to paper-based processing).

Section XII Ppn also allows for automated processing in the case of applications submitted on paper; however, the difficulty here is that the paper application must be uploaded into the electronic system (by scanning or other means), which slows down the process, and so the deadline for processing is set at 15 days.

The ambitious legislative drive to modernise the payment order procedure did not continue with regard to the courts; the detailed rules were never drawn up, and the automated payment order procedure was not implemented in the courts.

Instead, a different solution was introduced: Act L of 2009 on the payment order procedure (hereinafter 'Fmhtv.') transferred the payment order procedure to the jurisdiction of notaries and laid down its detailed rules (previously contained in the 1952 Pp.), with particular emphasis on the detailed provisions relating to electronic proceedings.

The explanatory memorandum to the Fmhtv. referred to the case law of the Constitutional Court [Decision 1/2008 (11 January) AB], insofar as it states that cases not requiring a decision on the merits – typically non-contentious proceedings in which there is no legal dispute on the merits – may be referred to notaries. The legislator's stated aim, as set out in the explanatory memorandum, is to relieve the courts adjudicating on the merits of the burden of formal judicial tasks, so that they may concentrate on adjudicating substantive legal disputes. In payment order proceedings, it is not a legal dispute that needs to be resolved, but rather the debtor is summoned to satisfy the creditor's claim.¹⁶⁵

165 In its Decision No. 1208/B/2010, the Constitutional Court rejected judicial initiatives seeking to declare certain provisions of the Fmhtv. unconstitutional and to annul them.

The essence of the initiative was that, in the absence of an objection, a payment order that has become final has substantive legal force; therefore, its issuance constitutes a judicial activity, and such powers are held exclusively by courts, but not by notaries. According to the decision, following a formal review, the notary public essentially issues the payment order automatically, without any substantive examination. The mere fact that, in the absence of an objection by the debtor, the order becomes final and enforceable does not, even subsequently, render the issuance of the payment order a judicial activity. The payment

The legislator highlighted the timely handling by notaries of other matters falling within their remit – supported by statistical data – their institutional network, which is adapted to both national and local specificities as well as case intake data, and their use of advanced administrative and IT systems, all of which collectively make the notarial profession well-suited to performing this new task as well.¹⁶⁶

Notaries have established the electronic payment order procedure system and must settle cases within a statutory time limit (3–15 days) that is shorter than the time limit previously applicable to the courts.

Since 1 June 2010, the Hungarian Chamber of Notaries (MOKK) has been operating a nationally standardised computer system which stores and processes electronically the statements and documents submitted in payment order proceedings. Every notary has direct access to the system and carries out procedural acts electronically via this system. The computerised system always acts ‘on behalf’ of the notary in question. The order and other documents therefore always bear the name and stamp impression of the notary responsible for the decisions issued (the notary handling the case in question). The parties access the system via a web interface, where they can submit their submissions. Under the Act, procedural acts that do not expressly require human intervention – provided the statutory conditions are met – may be carried out automatically via the MOKK system on behalf of the acting notary. Such acts are to be regarded as measures taken by the acting notary.

order is therefore a (preventive) procedure preceding litigation, which – in the absence of an objection – avoids litigation, and is thus a simple, automated non-contentious procedure aimed at relieving the burden on the courts; it does not resolve a legal dispute but – in connection with an uncontested claim – creates a title to enforcement without the need for litigation. The issuance of a payment order therefore constitutes an exercise of public authority, but cannot be regarded as a judicial (adjudicatory) activity in the strict sense.

- 166 General Explanatory Memorandum to Act L of 2009 on the Order for Payment Procedure. Cf.: Sándor UDVÁRY: The Notarial Order for Payment and the Courts’ Monopoly on the Administration of Justice. In: Gábor Szécsi (ed.): *De iuris peritorum meritis. Studia in honorem Endre Tanka*. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Science. Budapest, 2010. pp. 97–106; Judit MOLNÁR: 10 Years of the European Order for Payment Procedure – Assessments and Future Challenges. *Miskolci Jogi Szemle*, 2016/2, pp. 82–95. International perspective: Viktória HARSÁGI: The issues surrounding electronic order for payment procedures – through Hungarian, German and Austrian examples. *Infokommunikáció és Jog*, 2012/5–6, pp. 179–184.

A fundamental change, closely linked to digitisation and contrasting with the previous system administered by the courts, concerns the issue of jurisdiction: in the case of applications submitted electronically, cases are allocated automatically; in this procedure, the notary's jurisdiction extends to the whole country, thereby ensuring an even workload for notaries, regardless of their place of business.

In summary, it can be said that the electronic handling of payment orders, which has been within the remit of notaries for almost fifteen years, runs smoothly. In the event that a dispute over a payment order leads to litigation, communication with the courts is also unimpeded; the necessary and appropriate amendments have been made to the regulations regarding the starting point for calculating the time limit applicable to the court: the availability of the notarial file printout is required in all cases for the aforementioned time limit to commence.¹⁶⁷

In retrospect, however – in light of the digital developments in the courts that have taken place since then, whilst by no means disputing the merits of the notarial profession – the question arises as to why the digitisation of the order for payment procedure was not implemented within the court system, given that the foundations for this were laid down in Act XII Ppn. and the court system would have been capable of implementing the electronic development, as well as of handling incoming cases in a timely manner across the country. Based on the documents available at the time, this is not clear to the researcher; in any case, it is likely that the court workload at the time and the scarcity of resources justified the involvement of the notarial service, which relieved the burden on the courts and did not require budgetary resources for the developments. This solution undoubtedly provided significant assistance to the court system in the short term, but the same cannot necessarily be said in the long term: after just a decade – due to a number of factors – the number of cases reaching the courts has fallen to such an extent that it would allow for the efficient and timely handling of payment order cases; moreover, during their time as court clerks, this type of case, which allows for independent case management, is notably absent from the

167 Section 83 of Act CLXXX of 2011 on the amendment of laws relating to judicial enforcement and other judicial matters.

experience of those preparing for a judicial career.¹⁶⁸ The most significant drawback of this solution, however, is that it removes from the courts' jurisdiction a category of cases which, according to Hungarian legal tradition, had previously been handled by them.

III.4. Electronic communication in civil proceedings

A constitutional requirement imposed on the courts is to ensure access to the courts, which forms part of the right to a fair trial.¹⁶⁹ Digitalisation, the shift of communication to electronic channels, and technical solutions that facilitate various procedures and reduce the administrative burden seemed like a distant possibility just a few years ago; however, they are now part of everyday life, and ensuring them has become a fundamental requirement of the state. The terms 'info-communication' or 'information' society have become established concepts, referring to societies in which digital or info-communication tools and applications act as forces shaping society.¹⁷⁰ The explosive development of information technology and the functioning of the internet-based information (information and communication) society have also had an impact on court proceedings; the widespread adoption of IT tools and developments has naturally led to their utilisation within the justice system as well. The situation is well characterised by a statement made during an interview by the President of the National Office for the Judiciary, who has achieved outstanding results in the field of digital development: "If clients are already in the online world, then I believe it is a basic expectation that the courts should not be offline either."¹⁷¹

168 László PRIBULA: On the changing role of court clerks. *Judges' Journal*, 2001/2, pp. 45–53.

169 Article XXVIII(1) of the Fundamental Law

170 Zsolt György BALOGH: On information and communications law. *Infocommunications and Law*, 2004/2, pp. 45–49, and Zsolt CZÉKMANN: *The information society and e-government in Hungary*. Ferenc Deák Doctoral School of Political Science and Law. PhD thesis. Miskolc, 2016. (hereinafter: CZÉKMANN) p. 16.

171 "The human factor will always remain the most important!" – a conversation with Tünde Handó. *Mandiner*, 11 January 2019.

<https://mandiner.hu/kulfold/2019/01/az-emberi-tenyezo-mindig-a-legfontosabb-marad-beszeltetes-hando-tundevel> Downloaded: 19 August 2024.

In keeping with the subject of this monograph, I intend here to present the introduction of electronic case management in the courts, and specifically within civil proceedings, primarily from the perspective of the progress of the process. Consequently I shall not address the judicial and extrajudicial aspects of non-contentious civil proceedings, nor issues relating to criminal proceedings and administrative proceedings, and for the same reason I shall not discuss the detailed rules concerning electronic documents.

III.4.1. Regulatory trends and frameworks in the European Union

As early as the beginning of the 1990s, it became apparent in Europe that the opportunities and benefits offered by the information society needed to be explored. A group of experts commissioned by the European Council – comprising representatives of the relevant industrial sectors, users and consumers in the European Union and led by Martin Bangemann, European Commissioner – was tasked with formulating Community objectives relating to the information society and drawing up a plan of action. The work carried out was summarised in a document known as the Bangemann Report, which stated that, in order to improve the European Union's competitiveness, it must make use of new technologies, requiring the public sector to take various steps, for which a common regulatory framework must be developed to maximise market effects.¹⁷²

It was of decisive importance when, on 13 December 1999, the European Council and the Parliament – with a view to facilitating the use of electronic signatures, and to contribute to the legal recognition of electronic signatures – adopted Directive 1999/93/EC on a Community framework for electronic signatures, under which Member States were required to enact national legislation in accordance with the provisions of the Directive within eighteen months. In Hungary, this was achieved through the adoption of Act XXXV of 2001 on electronic signatures.

172 BANGEMANN, Martin: *Europe and the global information society*. Recommendation to the European Council. (Europe and the global information society. Recommendation to the European Council. – translated by the author) Brussels, 1994. pp. 5–35. Cf.: TATTAY Levente: The challenges of the information society and the European Union. *Külgazdaság*, 2003/10. pp. 132–135; CZÉKMANN, op. cit., p. 23.

Subsequently, several EU legislative measures concerned the regulation of the information society (for example, Directive 2000/31/EC of the European Parliament and of the Council on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market – the E-Commerce Directive).

At its meeting in Lisbon in 2000, the European Council set the goal for Europe to become the most competitive and dynamic economic community in the world.¹⁷³ It was emphasised that Europe must exploit the potential of the internet as soon as possible. It was clear that, although the governmental structures of the EU Member States differ, it was nevertheless necessary to create a measurement framework suitable for comparing the electronic services available in each Member State, their characteristics and their outcomes. This measurement framework was introduced by the European Commission in the eEurope 2002 Action Plan¹⁷⁴ by identifying the 20 most frequently used services that could be digitised to measure the uptake of electronic public services, and by defining the characteristics of their four levels of development (ranging from an electronic information portal to the possibility of full online administration).¹⁷⁵ Based on this, the levels of e-administration are:

- first level: provision of information electronically (e.g. posting information on the courts’ central website);
- second level: one-way communication (e.g. forms required for administrative procedures can be downloaded electronically);

173 The Lisbon Strategy: A More Competitive Europe with More and Better Jobs, 2 April 2004.
<https://www.europarl.europa.eu/highlights/hu/ppe1001.html> Downloaded: 21 August 2024.

174 eEurope 2002 Action Plan – part of the Lisbon Strategy, which aims to make the European Union the world’s most dynamic knowledge-based economy by 2010 (translated by the author)
<https://eur-lex.europa.eu/EN/legal-content/summary/eeurope-2002.html> Downloaded: 19 August 2024

175 Anita FIBINGER – Krisztián KÁDÁR – Péter KOVÁCS – András MAGYAR: Customer Service in Public Administration. Special Report. National University of Public Service, 2017.
https://joallamjelentes.uni-nke.hu/SpecJelentesek/%C3%9Cgyf%C3%A9lkiszolg%C3%A1l%C3%A1s%20a%20k%C3%B6zigazgat%C3%A1sban_2017.pdf Downloaded: 19 August 2024

- third level: interactivity (forms can be completed and authenticated on-line);
- fourth level: transaction (the entire procedure is electronic, including the payment of fees).

Later, as technology advanced, the number of levels was expanded to five in 2007,¹⁷⁶ where the highest level is personalisation, i.e. personalised, comprehensive services that also include automated elements (for example, if the relevant government body has access to specific data on the citizen from another official source, this is displayed on the personalised form, so it does not need to be re-entered).

These levels are not applicable to courts, which operate outside the public administration's organisational structure; however, one cannot overlook the continuous online availability/accessibility, customer focus, and the introduction of automated processes. The level of digital maturity of the courts is measured in other ways; I will discuss this in more detail later.¹⁷⁷

From the perspective of my topic, Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market, and repealing Directive 1999/93/EC (hereinafter: the eIDAS Regulation, an acronym for Electronic Identification, Authentication and Trust Services). The objective of the eIDAS Regulation, as set out in recital 2, is to strengthen trust in electronic transactions carried out in the internal market by establishing a common basis for secure electronic interactions between citizens, businesses and public authorities, thereby making online private and public services, e-business and e-commerce more efficient within the Union. The significance of the eIDAS Regulation for electronic administration in civil proceedings lies in the fact that, by declaring the principle of equivalence, it has created the potential for the wider use of electronic documents.¹⁷⁸

176 István TÓZSA: E-government in Europe – Present and Future. *Management Science*, 2011/3. pp. 10–18.

177 Explained in detail in Chapter V.

178 Gabriella TÓTH: The Rules on Electronic Communication in Civil Proceedings in the Light of Codification. *Journal of Legal Science*, 2021, No. 6 (hereinafter: TÓTH), pp. 297–298.

As a result of ongoing technological and IT developments, it became necessary to review the eIDAS Regulation adopted in 2014: On 30 April 2024, the European Parliament and the Council adopted Regulation (EU) 2024/1183 amending Regulation (EU) No 910/2014 as regards the establishment of a European Digital Identity Framework, applicable from 20 May 2024 (eIDAS 2.0 Regulation). Essentially, a new, unified European framework has been established for electronic identification and electronic signatures and aims to establish, by 2030, a trusted, voluntary, user-controlled digital identity that is recognised across the EU and enables all users to exercise control over their data during online interactions.¹⁷⁹

In addition, the eIDAS 2.0 Regulation introduces and regulates new electronic trust services, such as the European Digital Identity Wallet, electronic certified delivery, electronic website certificates and electronic sealing.

Under the eIDAS 2.0 Regulation, the European Digital Identity Wallet is an electronic identification means that enables the user to securely store and make available to third parties personal identification data and electronic attribute certificates, continuously manage access rights, sign with a qualified electronic signature, or affix a seal using qualified electronic seals. An attribute may be a characteristic, feature, right or authorisation of a natural or legal person or an object; it also defines the concepts of an electronic attribute certificate and a qualified electronic attribute certificate.

This new legal institution, the European Digital Identity Wallet, will enable cross-border identification within the EU. Domestic legislation is keeping pace with these developments; in December 2022, the government adopted the National Digital Citizenship Programme (NDÁP), and numerous new laws have been enacted, with several more currently in the pipeline. Analysing these advances and assessing their impacts, from both practical and academic perspectives, will be a task for the near future.

179 Recital 5 of the eIDAS 2.0 Regulation: ‘Every EU citizen and every person residing in the Union should be entitled to a digital identity that is under their sole control and that enables them to exercise their rights in the digital environment and participate in the digital economy. To achieve this objective, a European digital identity framework must be established that enables EU citizens and persons residing in the Union to access public and private services, both online and offline, across the Union.’

III.4.2. Directions and steps in domestic regulation

III.4.2.1. The initial steps of digitisation, from the advent of computers to the concept of electronic litigation

The changes accompanying the emergence of the information society and the rapid development of technology – as in other European countries – appeared relatively late within the traditionally conservative judicial system.¹⁸⁰ Although the provision of computers to staff began in the late 1990s, in the early 2000s – for reasons of work organisation, however, not for judges but for court clerks responsible for transcribing minutes and decisions – these were initially used mainly for word processing and accessing legal databases, which were still distributed on CD-ROM at the time. This period corresponds to the first stage of development in Zsolt Zódi's typology of the relationship between the courts and technology¹⁸¹, when the courts were essentially being computerised as public offices: filing was automated, word processors were introduced, and electronic legal databases appeared.

According to Zsolt Zódi's classification, the second phase began with the advent of the internet and brought with it the realisation of the courts' online communication. The first tangible development took place in the commercial courts, which play a significant role in economic life (and it was there that full electronic company proceedings were first fully implemented), after which – and we will return to the details of this later – electronic communication became possible, and in certain cases mandatory, in civil litigation and non-contentious proceedings, and subsequently in all areas of law.

In Hungary, the anonymisation and publication of judgments began in the early 2000s; the introduction of electronic communication can be dated to the first half of the 2010s, and in the second half of the decade, case

180 In the international literature, there are three levels of technological change affecting the courts: supportive technology, replacement technology and disruptive technology; see: SOURDIN, Tania: Judge v Robot? Artificial Intelligence and Judicial Decision-Making. (Judge v Robot? Artificial Intelligence and Judicial Decision-Making. – translated by the author) *UNSW Law Journal*, (2018) 41(4) p. 1117.

181 ZÓDI 2020, op. cit., p. 4.

files became available electronically (e-files), and solutions promoting digitisation also appeared in courtrooms (remote hearings, video and audio recording in courtrooms, and, in connection with the pandemic situation that began in 2020, we also became familiar with the institution of hearings held via devices capable of transmitting video and audio electronically). The third era, as described by Zsolt Zódi, is the era of ‘virtualisation’ and/or ‘artificial intelligence’, when technology steps out of its role as a ‘support’ or ‘efficiency-enhancing’ tool, emerging and bringing about changes in new areas where it was previously absent.¹⁸² We shall discuss the developments of this latter era and expectations for the future later on.¹⁸³

A fundamental prerequisite for meeting the challenges posed by the development of the information society¹⁸⁴ – alongside IT tools and developments – is the establishment of the necessary legal framework and the reform of procedural law to facilitate the introduction and effective use of modern technological tools and achievements. The judicial administration responsible for preparing this legislation also recognised this, and in 2007 – primarily with a view to speeding up proceedings and increasing the efficiency of case management – drew up a concept for amending the Code of Civil Procedure, which, among other things, included the introduction of electronic civil proceedings.¹⁸⁵ The concept envisaged the digitisation of a specific category of cases by 2010 on a pilot basis – in property law cases falling within the jurisdiction of the county court with a value in dispute exceeding ten million forints, subject to mandatory legal representation – but the planned amendment was not ultimately implemented at that time. It is worth noting that, subsequently, digitisation was implemented in a manner similar to that envisaged in this concept (a centralised electronic service for service of documents, the digitisation of service, document management

182 ZÓDI 2020, op. cit., p. 5.

183 See Chapter V.

184 For a theoretical approach to the information society, see: László Z. KARVALICS: D’Artagnan still holds out. On the information society, twenty years on. *Information Society*, 2021/1, pp. 48–72.

185 Mátyás KAPA: Developmental trends in Hungarian civil procedure law – with particular regard to electronic civil procedure. *De iurisprudentia et iure publico*, 2007/1–2. (hereinafter: KAPA), p. 3; Andrea NAGY: Enforcement proceedings, electronic communication. In: Judit Siket (ed.): *Explanation of Basic Legal Concepts Relating to the Activities of the Judicial Professions*. Magyar Közlöny Lap- és Könyvkiadó. Budapest, 2022. pp. 283–286.

and document viewing). Even at that time, the idea of conducting certain evidentiary proceedings using audiovisual equipment, via videoconference (e.g. evidence taken through a requested court), had already been raised, and the written preparation of the case was essentially planned in accordance with the provisions of the Civil Procedure Code (Pp.), which came into force almost ten years later: a strong emphasis on written preparation, with fixed deadlines for the defendant to submit their defence in a statement of defence, to amend the claim, to file a counterclaim, to present evidence and to submit motions for evidence. To summarise the concept, although it uses the term ‘electronic civil proceedings’, it essentially contains stricter and more rigid rules regarding deadlines for a specific category of cases, with digitisation serving as a means to expedite the proceedings.¹⁸⁶

III.4.2.2. The emergence and expansion of electronic communication

III.4.2.2.1. The existence of the necessary prerequisites on the part of the courts and clients

Court proceedings were conducted on paper for centuries; for a long time, there was no suggestion of this changing, and even twenty years ago, the changes brought about by rapid technological development were unimaginable. An excerpt from an interview conducted in 2008 with a renowned lawyer clearly illustrates the changes brought about by IT developments: “I am certain that there will be ‘e-litigation’. It is not certain that we will implement it as we should, but it will happen. In any case, I look forward to the day when it will be possible to attend a hearing not in person, but via electronic means, conducting proceedings in a ‘video conference’ format over the internet. I look forward to the day when, to obtain documents or view

186 On the subject of the concept, see: KAPA, op. cit., pp. 9–14; Zsuzsa WOPERA: The use of electronic communication and closed-circuit telecommunications networks in civil proceedings. In: Zsuzsa Wopera (ed.): *Commentary on the Code of Civil Procedure*, Volumes 1–2. Wolters Kluwer Kft. Budapest, 2016. (hereinafter: WOPERA 2016.) pp. 1181–1205; Péter SZALAI: Electronic communication in civil proceedings. In: Gergely G. Karácsony (ed.): *The Law of Electronic Proceedings*. Gondolat Kiadó. Budapest, 2018. (hereinafter: SZALAI) pp. 7–35.

court records, I won't have to go to the registry office, but will be able to access the court file or request a copy from there via electronic means over the internet. And I look forward to the time when, thanks to electronic administration, I won't have to think twice about submitting an application, but when the option of e-procedures will genuinely make our work easier.”¹⁸⁷

As mentioned earlier,¹⁸⁸ the first instance of electronic communication occurred in 2006, in company proceedings: at that time it was still optional, but from 1 July 2008 it became mandatory in first-instance proceedings to submit applications electronically. The technical conditions were therefore already in place at that time, and it took only a few years for the possibility of electronic communication to be extended to adversarial litigation proceedings, following the enactment of the necessary legislation and the establishment of the IT infrastructure.

“We affirm that the common goal of the citizen and the state is the fulfilment of a good life, security, order, justice and freedom.” – states the National Creed of Hungary's Fundamental Law. The term “Good State” – used primarily in the context of public administration – which, according to Zoltán Magyary's public administration development programme, “can be considered good insofar as it serves the needs of individuals, communities and businesses in the best possible way, in the interest of and within the framework of the common good”¹⁸⁹ – cannot be realised without a high-quality justice system that meets the requirements of the 21st century. The courts must also make use of modern technological advances to ensure transparent and predictable operations, equipped with user-friendly, European-standard digital systems that meet the expectations of clients.

The importance of electronic communication was recognised in the context that, as a result of the widespread adoption of computerised word processing,

187 Interview with Dr Daisy Kiss. *Jogi Fórum*, 11 July 2008. <https://www.jogiforum.hu/interju/2008/07/11/dr-kiss-daisy/> Downloaded: 19 August 2024.

188 See section III.3.1.

189 *The Measurability of the Good State*. Good State Research Workshop, ÁROP-2.2.21-001 ‘Knowledge-based Public Service Career Progression’, National University of Public Service, 2014.; Csaba CSERVÁK – György Tamás FARKAS – János RIMASZÉCSI: Current issues underpinning the scope of democracy in relation to the 2017 and 2008 Good State Reports. In: Kaiser, Tamás (ed.): *The Measurability of the Good State III*. Budapest, Dialóg Campus Publishing. Budapest, 2019. pp. 157–169.

the parties' submissions were already largely available in electronic form – in all cases alongside legal representation – but the benefits of this could not be exploited due to 'paper-based communication': the transmission of paper-based submissions to the courts, followed by their service on the parties via the postal service, involved significant costs and time; the same applied to the transmission of documents generated by the courts to the parties. In other countries, there were instances where the court sent paper-based submissions to the parties electronically after scanning them, but in the domestic regulations, this option – in my view quite rightly – was not even considered. The transmission of electronic documents, whether generated by the court or by the parties – i.e. documents that have already been created – offers numerous advantages: the aforementioned cost savings (e.g. reduced paper consumption and postage costs) enhance cost-effectiveness, whilst the reduction in time spent on administrative tasks (the transmission of documents is immediate, with no posting or delivery time), and more efficient, transparent working practices increase the efficiency of litigation; as a result, expectations regarding the conclusion of cases within a reasonable timeframe can also be better met. Furthermore, the strict rules governing electronic communication, as laid down by law, ensure the authentic identification of the parties (sender and recipient) via the closed data transmission system operated by the National Office for the Judiciary, whilst preventing unauthorised access. A key factor in this process was the establishment of the legal framework for electronic signatures, which enabled the introduction of electronic documents.¹⁹⁰

It has also been mentioned that, with the advancement of information technology and the widespread availability of the internet, the relationship between the courts and technology has entered a second phase of development: following the digitisation of court workflows, the need for electronic communication arose. As a prerequisite for its introduction, it is essential to mention: for a change of this nature to be implemented, the courts and the

190 Viktória HARSÁGI: Electronic documents, electronic signatures. *Magyar Jog*, 2001/11, pp. 648–658. Tamás KLEIN – Gyula Balázs CSÁKI-HATALOVICS: The regulatory foundations of electronic signatures. In: András Tóth – Tamás Klein (eds.): *Introduction to Information and Communications Law*. Patrocinium Publishing. Budapest, 2016. pp. 351–362, Kristóf SZIVÓS: The dogmatic foundations of electronic documents and their regulatory environment. In: Mária Certicky (ed.): *Innovative Private Law Solutions in the Service of Socio-Economic Progress*. Association of Private Law Lecturers. Szeged, 2020. pp. 20–25.

parties and authorities involved must be prepared, i.e. they must possess the technical conditions, equipment and necessary competencies required for the use and operation of the IT system in question. In the late 2000s, the starting point of the Digital Knowledge Action Plan (DIAT, 2009) was that Hungary was significantly lagging behind even the European midfield in terms of public internet access, usage and digital literacy, and to change this, the action plan set out to reduce the motivational barriers hindering the spread of digital literacy and to raise skill levels.¹⁹¹ The National Infocommunications Strategy (hereinafter: NIS) for the period 2014–2020 shows that significant progress has been made in this area, for example:

- the proportion of people using the internet on a weekly or daily basis is close to the EU average,
- several training programmes have been launched and are continuously available,
- internet coverage is essentially universal within the public sector,
- decisive steps have been taken to establish consolidated, unified IT operations within central government,
- favourable broadband network access,
- a clear government commitment to the development of the sector,
- a developed, high-capacity telecommunications backbone network.¹⁹²

III.4.2.2.2. Stages of implementation: from opportunity to obligation

In light of the circumstances and development process outlined above, the introduction of electronic administration in civil proceedings took place

¹⁹¹ National Infocommunications Strategy 2014–2020, p. 131.

<https://2010-2014.kormany.hu/download/b/fd/21000/National%20Information%20and%20Communication%20Strategy%202014-2020.pdf> Downloaded: 19 August 2024.

¹⁹² NIS pp. 63–69 – SWOT analysis of digital competences, the digital economy, the digital state and horizontal factors. See: Zsolt CZÉKMANN – Balázs SZABÓ: Key strategic steps in building the information society in Hungary, with particular reference to the National Infocommunications Strategy 2014–2020 document. In: Erika Váradi-Csema (ed.): *Current Issues and European Answers in the Field of Law and Justice in Romania and Hungary: Provocări și răspunsuri în domeniul dreptului și sistemului judiciar din România și Ungaria*. University of Miskolc. Miskolc, 2015. pp. 49–56.

gradually, step by step – whilst avoiding making it more difficult to bring cases before the courts – which involved, on the one hand, the availability of technical conditions and, on the other hand, the implementation of the appropriate legal framework.

As a first step, Act LII of 2009 on the electronic service of official documents and electronic acknowledgement of receipt amended the 1952 Civil Procedure Act with effect from 1 January 2010 introducing Chapter XXVII, entitled ‘Electronic Communication in Civil Proceedings’, which scheduled the application of the rules on electronic service in stages, effective from 1 July 2010 and 1 July 2011.

In the case of electronic communication, the parties and their legal representatives may submit their pleadings using the forms provided for this purpose, which – together with the instructions for completion – are available on the central website of the courts.¹⁹³

The explanatory memorandum to the Act states that there is a general social expectation that judicial, administrative and other official proceedings should be expedited by making use of the opportunities offered by the information society. It was emphasised that the primary aim of the amendment is to establish the conditions for electronic communication – specifically, properly documented and secure electronic service – in the interests of a swift and efficient administration of justice. They noted that for businesses to operate successfully, it is essential that the state effectively ensures the enforcement of the substantive rights granted to economic actors by substantive law, which contributes to the elimination of existing distortions in economic life: easier and faster resolution of legal disputes can, for example, greatly help to reduce the number of circular debts. They explained that the possibility of electronic service of official documents and the introduction of electronic communication would speed up the conduct of litigation proceedings. The essence of the regulation was that electronic communication

193 See: Detailed rules on electronic communication with the court and electronic court document management, BÜSZ Chapter IX/B, in force from 1 January 2013. Forms and templates for proceedings (on the central website of the courts)

<https://birosag.hu/ugyfeleknek/nyomtatvanyok/eljarasok-nyomtatvanyai>

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involves a body independent of the sender and the recipient, whose task is to handle delivery, and through which documents delivered in accordance with the rules may be subject to the legal effects set out in various pieces of legislation.¹⁹⁴

Following several legislative amendments, Act CCXI of 2012 on the amendment of certain laws relating to the administration of justice amended the provisions of the 1952 Code of Civil Procedure in such a way that, from 1 January 2013, it permitted electronic communication in proceedings commenced after 1 January 2013 falling within the jurisdiction of the court of first instance. Under the regulations, if a party or their representative chooses to submit their pleading (and its annexes) electronically in a case falling within the jurisdiction of the court of first instance, they must maintain contact with the court electronically throughout the proceedings at first instance, and the court shall also serve all court documents on them electronically (the submission of the pleading by electronic means shall be deemed to constitute an undertaking to communicate electronically). A paper copy of the statement of claim submitted electronically must be served on the defendant, provided that the court must inform the defendant that they may also submit their defence and statements by electronic means. It is important to note that the party's choice will henceforth determine the course of the proceedings; that is, if they have opted for electronic communication, this will apply thereafter. A narrow exception to this was permitted: if a party acting without legal representation agreed to communicate with the court electronically, they may subsequently, at the same time as submitting a paper-based pleading, request the court's permission to switch to paper-based proceedings, on the grounds that a change in their circumstances has occurred which would make electronic proceedings a disproportionate burden for them going forward.

194 WOPERA 2016, op. cit., pp. 1181–1205; György WELLMANN – Árpád OROSZ: Resolutions of the Presiding Judges' Meeting of the Civil Division of the Supreme Court on procedural issues arising in connection with electronic communication. *Supreme Court Decisions: Court Rulings*. The Journal of the Curia. 2017/9. p. 1337; Andrea NAGY: Electronic communication. In: Judit Siket (ed.): *Explanation of basic legal concepts relating to the activities of the judicial professions*. Hungarian Gazette Press and Publishing House. Budapest, 2022. p. 286.

The rules stipulate that the National Office for the Judiciary (OBH) shall ensure that communication with the court can be maintained via a delivery service system; in this context, the OBH is also authorised to process data for the purpose of ensuring such communication. In terms of the material conditions, it is essential that court documents be provided with an organisational electronic signature (a document bearing an organisational signature and drawn up by the court constitutes a public document); the parties, meanwhile, must provide their documents with at least an enhanced security electronic signature. It has also been specified that, in order to fulfil their procedural obligations, the party will receive notifications at specific times and with specific content, and may access the court document addressed to them by opening the relevant internet link. It is important to note that opening this internet link also generates an electronic acknowledgement of receipt, which is sent to both the court and the party, thereby confirming that the party has received the court document (in the event of non-receipt, the presumption of service naturally applies here as well, i.e. if the party does not collect the court document by the fifth working day following its placement in the electronic delivery repository, the court document shall be deemed to have been served on the following working day).

The next step – aimed at promoting the timeliness of proceedings – was taken in Act LXXI of 2015 on the non-contentious compliance procedure under Article 31 of Regulation (EU) No 650/2012 of the European Parliament and of the Council, as well as on certain amendments to laws relating to justice, which, Through this amendment, which entered into force on 1 July 2015, the parties may now opt for electronic communication not only in cases falling within the jurisdiction of the court of first instance, but at all levels of civil proceedings, including at first instance and in appeal proceedings. Through phased regulation, with a view to gradual implementation, electronic communication was made mandatory in civil proceedings in cases specified by law – including, amongst other things, where a party is represented by a legal representative or where the party is a business entity – from 1 January 2016, and subsequently postponed to 1 July 2016, electronic communication became mandatory in civil proceedings. At the same time, electronic communication between courts, and between courts and admin-

istrative bodies or other authorities – with the initially specified date postponed¹⁹⁵ – was made mandatory from 1 July 2016.

It should be noted that, in addition to the enactment of the regulations, continuous development also required the necessary IT infrastructure to be available on both the clients’ and the courts’ sides; for this very reason, the changes were not introduced all at once on a mandatory basis, but – as outlined above – in stages, and initially only on an optional basis. In order to ensure smooth and efficient administration, it will be possible to move to the next stage – that is, to introduce digitisation on a wider scale and on a mandatory basis – once sufficient and appropriate experience is available. It was necessary to establish the conditions required for the electronic submission, receipt, handling and processing of documents, the issuance of decisions, for electronic communication between courts and other bodies, and for the electronic payment of fees, which were implemented over several years in the projects¹⁹⁶ already presented at¹⁹⁶ by the National Office for the Judiciary (OBH), responsible for the central administration of the courts at, with the active involvement and participation of those working within the judicial system.

It is worth noting that, in the meantime, the recodification of the Hungarian Code of Civil Procedure has begun, in connection with which a government decree ordered “the commencement of work aimed at the comprehensive modernisation of civil procedure law, including Act III of 1952 on the Code of Civil Procedure.”¹⁹⁷ The immediate aim of the review is to create a modern code of civil procedure that complies with international practice and expectations, and which ensures the effective enforcement of substantive rights. A further aim is for the new Code of Civil Procedure, drawing on the findings of legal scholarship and legal practice, to regulate procedural matters in a clear and coherent manner, whilst taking into account technological advances, thereby facilitating the situation of citizens seeking jus-

195 Section 1 of Act CCXII of 2015 on the amendment of certain acts in connection with economic growth. Further reading: Gabriella Eleonóra BONYHAI: The transfer of an estate – the certificate of succession in the light of the Romanian Civil Code and Regulation (EU) No 650/2012 of the European Parliament and of the Council. *Erdélyi Jogélet*. 2021/2. pp. 143–154.

196 See point III.1.

197 See point II.1.1 above.

tice and the professional community. The new Code of Civil Procedure plays a prominent role, as the Civil Code has re-regulated civil substantive legal relationships, and it is the responsibility of the Code of Civil Procedure to ensure the enforcement of substantive legal norms.

It is evident that, in line with the rapid expansion of information technology and rapid technological development, the legislator has recognised that these developments and achievements must also be applied in the field of civil procedural law. With a view to achieving the objective set out in the Government Decree regarding the consideration of technological advances, and thus committed to the use of electronic communication and modern information technology in litigation, the 1952 Code of Civil Procedure was amended as outlined above.¹⁹⁸

*III.4.2.2.3. The role of the E-Administration Act and its relationship
to the Code of Civil Procedure*

According to its preamble, the E-Administration Act was enacted by the National Assembly to promote the widespread adoption of electronic administration, to expedite procedures and reduce administrative burdens, to facilitate the wider digitisation of private law relationships and administrative law relationships between the state and citizens, to ensure cooperation between bodies providing electronic administration, and to provide the public with more modern and efficient public services.

To this end, the aim of the E-Government Act was to establish systems that enable the implementation of electronic administration in accordance with uniform principles, regardless of whether the matter concerns state administration, local government or other bodies, including the courts. The need for such regulation is evident, as this solution ensures interoperability, the electronic interconnection of systems and the proper transfer of data for the sake of efficient administration. This was the starting point for the E-Admin-

198 Pp. General Explanatory Memorandum, Section III.10: ‘The importance of using modern information technologies is indicated by the fact that the legislator began implementing the objective set out in the Concept as early as the preparatory phase of the Act, by amending the current Pp.’

istration Act to specify which organisations must provide electronic administration,¹⁹⁹ and to establish uniform rules for all organisations providing electronic administration (e.g. state administrative bodies, local authorities, courts, public prosecutors' offices, notaries, etc.) have been established in a uniform manner, without distinction based on the specific procedures of the organisations. A key principle is that bodies providing electronic administration – including the courts – are obliged to ensure electronic communication with clients for the management of matters falling within their remit and for the provision of services required by law [Section 2(1) of the Electronic Administration Act], whilst for a specific group of clients – those who, by virtue of their circumstances, are able to do so without difficulty, e.g. business organisations, legal representatives, the State, local authorities, budgetary bodies, etc. – this method of procedure has become mandatory.²⁰⁰

199 Section 1(17) of the E-Administration Act: bodies providing electronic administration:

- a) state administrative bodies,
- b) local authorities,
- c) other legal entities authorised by law or government decree to exercise administrative authority,
- d) the National Judicial Office and the courts, arbitration tribunals,
- e) the Commissioner for Fundamental Rights,
- f) the Public Prosecutor's Office,
- g) notaries,
- h) bailiffs,
- i) public bodies, with the exception of mining communities,
- j) public utility providers,
- k) legal entities performing public duties or providing public services which are required by law or government decree to conduct business electronically, and
- l) legal entities not falling within the scope of subparagraphs a) to k) which voluntarily undertake to conduct electronic administration in accordance with this Act in matters specified by the Government in a decree, and which ensure compliance with the conditions set out in this Act;

200 Section 9(1) of the Electronic Administration Act Unless otherwise provided by law on the basis of an obligation arising from an international treaty, the following shall be obliged to conduct business electronically in respect of all matters referred to in Section 2(1)

- a) the business organisation acting as the client,
- b) the client's legal representative,
- c) the
- ca) the State,

The legislature has set out the specific rules governing electronic communication—which apply exclusively to civil proceedings—in a separate chapter of the Code of Civil Procedure (Chapter XXVII of the 1952 Code of Civil Procedure, later Chapter XXVIII), which essentially marked the realisation of the fourth level of e-administration, namely the full digitisation of proceedings.

III.4.2.2.4. The practical operation of electronic communication

Clients, their representatives and other bodies required to maintain contact with the court do so via a closed data transmission system, through a delivery system, electronically, i.e. without the use of paper-based submissions, which is facilitated by the IT system developed by the National Office for the Judiciary (OBH) for this purpose.

Electronic communication is available exclusively via forms – also known as templates – which must be completed using a form-filling programme and then submitted via the Client Portal (which is a submission interface based on the full identification of natural persons), the Business Portal (which is an official repository provided for business organisations, serving for electronic administration and communication) or the Official Portal (which is a submission interface based on the full identification of the organisation).²⁰¹

It is important to note that submission by email or fax does not constitute electronic communication. Although the legislation does not provide a precise definition of the concept of electronic communication, it is nevertheless clear from the text of the Act (Section 294/G of the 1952 Civil Procedure Code), it is nevertheless clear that only those submissions sent electroni-

cb) a local authority,

cc) a budgetary body,

cd) a public prosecutor,

ce) a notary

(cf) public body,

cg) other administrative authorities not falling within the scope of points cb) to cf).

²⁰¹ The process of completing the form and the necessary technical requirements are well illustrated from the perspective of the legal representative in Szalai, op. cit., pp. 7–35.

cally via the Client Portal/Official Portal, using the appropriate form-filling software, and which are received directly into the court's IT system, are considered to be submissions sent electronically.

III.4.2.2.5. Provisions of the Pp.

As a result of several years of codification work, the Pp. was published in the Hungarian Gazette on 2 December 2016.

In Part Ten, entitled 'The Use of Electronic Technologies and Devices', the legislator regulated the subject in the same way as in the 1952 Pp.: it placed the rules on electronic communication in a separate part and a separate chapter of the Pp. In the General Explanatory Memorandum, it was considered important to highlight among the most significant innovations that electronic communication – in line with the provisions of the E-Administration Act – is given greater prominence, and the Pp. contains only those rules necessary in view of the specific characteristics of civil proceedings.²⁰² It was also emphasised that the detailed regulation of the content of the most important pleadings (e.g. statement of claim, defence) in the Pp. – alongside the more targeted preparation of the proceedings – also serves to standardise their format, thereby facilitating the litigation process and electronic communication for parties proceeding without legal representation.²⁰³

Section 604 of the Code of Civil Procedure contains a reference provision stating that the provisions of the Code of Civil Procedure shall apply to electronic communication, subject to the exceptions set out in the relevant chapter. According to the explanatory notes to this section of the Pp., the intention is not to introduce separate procedural rules for individual legal institutions depending on whether communication in the given proceedings takes place on paper or electronically; consequently, the chapter on electronic communication contains only provisions requiring arrangements that deviate from the general rules. Essentially, in the case of court proceedings – which constitute the main rule under the Pp. and where legal

²⁰² Pp. General Explanatory Notes, point III.10.

²⁰³ Pp. General Explanatory Memorandum, point III.4.

representation, and consequently electronic communication, is mandatory – the rules set out in this chapter do not differ from the general rules, but are the general rules themselves.²⁰⁴

The Pp. – in line with the E-Administration Act – does not change from the previous rules in that it does not make electronic communication mandatory for all parties, but it remains an optional choice for them at any stage of the proceedings; however, once chosen, it becomes an obligation thereafter. A very important provision regarding the electronic availability of case files (e-files) is that documents submitted to the court by a party not obliged to communicate electronically, or who has not chosen to do so, must also be digitised, and this is the court's obligation.²⁰⁵ This ensures that in situations classified as 'mixed proceedings'²⁰⁶ – where one party communicates with the court electronically whilst the other does so on paper – documents submitted on paper are also made available remotely and electronically to both the court and the parties.

The Pp. determines, by reference to the provisions of the E-Administration Act, who is obliged to communicate electronically; the reason for this is that it seeks to prescribe this form of communication for the same parties in all proceedings.²⁰⁷ Following the legislative process, we can observe that there has been a slight setback in the process of digitisation following the amendment to the Pp.: namely, Section 75 amended Section 605(3) and Section 608(1) of the Pp. in such a way that, where a party is obliged to communicate electronically, electronic submission or service does not apply to the service of documents or decisions attached to or deliverable at the hearing. According to the explanatory memorandum to the amending Act, 'a rigid interpretation of the rules on electronic communication has, in practice, led to courts requiring electronic communication even in the case of procedural acts to be performed at the hearing, and to courts not permitting the submission of any documents at the hearing, thus preventing the party from exercising their rights as permitted by law. In view of this, it is necessary

204 TÓTH, op. cit., pp. 300–301.

205 Section 605(4) of the Civil Procedure Code.

206 Zsuzsa WOPERA – Adrienn NAGY: E-relationships in civil justice. In: Zsolt Czékmann (ed.): *Information and Communications Law*. Ludovika University Press. Budapest, 2019. p. 156.

207 Section 608(1).

to clarify in Section 605(3) and Section 608(1) of the Code of Civil Procedure that service by electronic means does not apply to the service of documents attached to or deliverable at the hearing, or decisions, as electronic communication cannot be interpreted in this context amongst those present at the hearing.” There is also a view that the interpretation of the law arising from the previous regulations, according to which a hearing must be adjourned solely so that a party may submit a power of attorney or other document available at the hearing electronically, is incompatible with the requirement of ‘common sense’ set out in Article 28 of the Fundamental Law and the principle of the application of the law in the service of citizens, in accordance with the public good and common sense, as formulated in the preamble to the Code of Civil Procedure. Preamble, which is guided by the legislative aim of ensuring the service of citizens and the application of the law in accordance with the public good and common sense – according to which the legislator enacted the Pp. to ensure the service of citizens, in accordance with the public good and common sense – is also contrary to this.²⁰⁸

In my view – although the problem outlined does exist and it is indeed unacceptable for a hearing to be adjourned solely because a document that is otherwise available is submitted electronically – this amendment represents a minor step backwards in the necessarily progressive process of digitisation,²⁰⁹ as it allows for the submission and service of documents available electronically to the parties and the court to be carried out exclusively in paper form. A suitable solution would be to allow the attachment of documents at the hearing in accordance with the current rules, whilst also requiring the party to submit the documents electronically within a short timeframe so that they are available in the e-file; in this way, both objectives would be met: the document may be attached at the hearing, but the party

208 Pál Emil MÉSZÁROS: The problem of procedural acts to be performed at the hearing in relation to electronic case management. *Studia Iurisprudentiae Doctorandorum Miskolciensium*, 2021/1. pp. 159–172.

209 For a different perspective, see: Pál MÉSZÁROS: Certain issues relating to electronic administration in connection with the Code of Civil Procedure. In: Csaba Szilovics; Zsolt Bujtár; Barnabás Ferencz; Alexander Roland Szívós; Botond Breszkovics; Zsolt Gáspár (eds.): *Economic challenges in the 21st century*. University of Pécs, Faculty of Law, Department of Financial and Economic Law. Pécs, 2021. pp. 37–40.

producing it electronically is also obliged to attach it electronically.²¹⁰ The legal consequence of failing to comply with this obligation could be, at most, the imposition of a fine, precisely so that the application of any other legal remedy (e.g. invalidity) does not lead to a solution that conflicts with the requirement of ‘common sense’, nor to a prolongation of the proceedings.

Given the space constraints, it was not my intention to outline the entire regulatory framework and content of electronic communication, all the more so because the aim of this chapter is to present the process and progress of digitisation. According to the first sentence of the general explanatory memorandum to the E-Administration Act, the purpose of the Act – in line with the technological developments of the 21st century – is to extend the scope of electronic administration; to establish the necessary legal conditions and the legal basis for technical developments, and to require state and non-state organisations providing administrative services to a wide range of clients to conduct electronic administration in accordance with uniform principles. We may ask: have the set objectives been achieved?

When assessing the results at a societal level, in terms of competitiveness and modernisation, and from the perspective of citizens, businesses, and state bodies, it is essential that the opportunities inherent in digitalisation are recognised and utilised in our country, thereby contributing significantly to the growth of the country’s competitiveness and the well-being of its citizens. Furthermore, it is important to consistently uphold a government approach that seeks to level the playing field and foster dialogue, as well as to strengthen supportive measures.²¹¹

If we consider that, whilst in 2011 electronic communication between the court and clients was limited to corporate matters, significant progress has been made in just a few years: by the end of the decade, it was available as an option at all court levels and in all types of cases, and mandatory in specific instances. This has enabled the creation and operation of systems

210 Naturally, the foregoing does not apply to the submission of documents specified in Section 8(2) of the E-Administration Act, which cannot be replaced by any other means.

211 National Digitalisation Strategy, 2022–2030. p. 89.

<https://cdn.kormany.hu/uploads/document/6/60/602/60242669c9f12756a2b104f-8295b866a8bb8f684.pdf>

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that, in response to the challenges of the rapidly digitising environment of the 21st century, ensure the faster, more timely and more efficient functioning of the courts by allowing online access to records and document inspection regardless of time or place. However, digitisation is not an end in itself, so it is worth examining what measurable results have been achieved following its introduction.

The reports submitted annually by the President of the National Office for the Judiciary to the National Assembly contain data showing the annual breakdown of the number of submissions made electronically as a result of the introduction of electronic administration, as shown in the Table 2 (the most recent report currently available covers the year 2023).²¹²

Trends in the number of e-submissions (initial and subsequent documents) in civil litigation between 2013 and 2023		
Period (year)	Number of submissions (units)	Of which initial pleadings (units)
2013	306	92
2014	597	108
2015	1,600	244
2016	102,232	33,582
2017	490,508	91,080
2018	680,433	100,295
2019	588,209	100,536

212 2018 Annual Report of the President of the National Judicial Office.

<https://birosag.hu/beszamolok/az-orszag-birosagi-hivatal-elnokenek-2018-evi-beszamoloja>

The 2019 Report of the President of the National Judicial Office.

<https://birosag.hu/beszamolok/az-orszag-birosagi-hivatal-elnokenek-2019-evi-beszamoloja>

The 2020 Report of the President of the National Judicial Office.

<https://birosag.hu/beszamolok/az-orszag-birosagi-hivatal-elnokenek-2020-evi-beszamoloja>

The 2021 Report of the President of the National Judicial Office.

<https://birosag.hu/beszamolok/az-orszag-birosagi-hivatal-elnokenek-2021-evi-beszamoloja> Downloaded on: 19 August 2024

The 2022 report of the President of the National Judicial Office.

<https://birosag.hu/beszamolok/az-obh-elonokenek-2022-evi-beszamoloja>

The 2023 report of the President of the National Judicial Office.

<https://birosag.hu/beszamolok/az-orszag-birosagi-hivatal-elokenek-2023-evi-beszamoloja> Downloaded: 17 March 2025.

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

2020	582,401	99,459
2021	622,945	96,049
2022	626,301	100,846
2023	603,374	101,739

Table 1: Trends in the number of e-submissions (initial and subsequent documents) in civil litigation between 2013 and 2023 (compiled by the author)

The figures show that since the introduction of this legal institution – thanks to changes in the legislative environment and IT developments – the number of electronically submitted pleadings (both initial and subsequent pleadings) has been growing steadily, with only minor interruptions. The reports also consistently note that, in practice, even parties not obliged to communicate electronically are keen to choose this faster, more cost-effective form of communication over the paper-based alternative.

The fact that communication with the courts has largely become paperless and moved to an electronic platform has numerous positive consequences, the impact of which is primarily reflected in reduced costs (e.g. paper, postage, printing and travel costs), and a reduction in the time spent on administrative tasks; these factors have an impact on the economy and competitiveness, and also facilitate access to the courts. A fundamental requirement is also seamless availability, continuous development of the system, and the availability of more modern, easier-to-use forms and templates that can even be completed via a mobile app, as well as the simplification of payment processes (advance payment of fees and costs at).²¹³

The widespread mandatory introduction of electronic communication was a prerequisite for the development of the e-file system – accessible remotely, securely and subject to authorisation, 24 hours a day, regardless of time or place: if you like, the latter is a natural consequence of the former, as detailed in sections III.5.1 and III.5.2 of this monograph.

²¹³ PROJICS, op. cit., pp. 124–126.

III.5. Electronic communications networks in civil proceedings

III.5.1. The introduction and regulation of remote hearings

The institution of remote hearings was first introduced into the Hungarian legal system in the field of criminal proceedings under the title ‘conducting hearings via a closed telecommunications network’²¹⁴, primarily as a method of questioning witnesses and, in exceptional cases, the accused. According to the explanatory memorandum to the Act, the institution of hearings via a closed telecommunications network may play an important role not only in witness protection, victim protection and the safe and expeditious conduct of proceedings, but also in the fulfilment of requests for international legal assistance. In practice, the hearing of persons held in penal institutions is the most common, which results in significant cost savings due to the absence of the need to bring them to court, and no security issues arise.

In contrast, it took more than ten years for this legal institution to appear in the field of civil procedure, even though the need for remote hearings had arisen much earlier in the context of cross-border cases.²¹⁵ Incidentally, it was already suggested in legal literature in the early 2000s that the process of digitisation, the e-court “enables not only the exchange of information between courts connected to the network, the establishment of electronic links between legal professionals and courts, or the electronic transmission of documents, but also, potentially, the electronic recording of evidentiary proceedings or even the simultaneous hearing of persons located in different places.”²¹⁶

The rules governing the use of closed telecommunications networks were incorporated into the 1952 Code of Civil Procedure – as Chapter XXVIII/A –

214 This legal institution was introduced by Section 146 of Act I of 2002 amending Act XIX of 1998 on Criminal Procedure.

215 Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil and commercial matters (EU Evidence Regulation).

216 Kiss Daisy: E/E – or the impact of the electronic society on procedural law. *Magister artis boni et aequi – Studia in honorem János Németh*. ELTE Eötvös Publishing House. Budapest, 2003, p. 519.

by Act III of 1952 on the Code of Civil Procedure, and Section 20 of Act CLXXX of 2015 on the amendment of other procedural and judicial laws, with effect from 4 December 2015, under the title ‘Rules on the use of closed-circuit telecommunications networks’. This has made it possible in civil proceedings to hear or examine parties, witnesses and experts even if their appearance at the designated venue of the hearing would entail significant difficulties (for example, due to reduced mobility, long-term illness or the need to provide continuous care for a relative) or would involve disproportionately high costs. Previously, this could only be arranged through the requested court.

In the case of a hearing via a closed telecommunications network²¹⁷, the connection must be established between the court hearing the case and the location of the person to be heard or examined; the latter location must be either another court or a room where the conditions necessary for the operation of the closed telecommunications network are available. The direct connection between the two locations – or even more, as several persons in different locations may be examined in this manner during a hearing – is ensured by equipment transmitting both video and audio simultaneously.

During remote hearing, the judge presiding over the hearing (or the judge or court clerk conducting the in-person hearing) is present at the designated venue of the hearing (in-person hearing), whilst the person being heard is located in a room set up for hearing via a secure telecommunications network. As, consequently, no court staff are present at the venue of the remote hearing, in this case the identity of the person to be heard must be verified by means of video transmission. In addition, the identity details must be cross-checked against the data held in the register maintained by the authority responsible for personal data and address registration, which requires access to the register.

For procedural reasons, it is important to ensure that the judge or court clerk conducting the hearing can see the person being heard, as well as all persons present at the same time, and every part of the room serving as the venue for the remote hearing. In addition, the person being heard must

217 The detailed technical rules governing hearings in civil proceedings are set out in Decree 19/2017 (XII. 21.) IM on the conduct of hearings via electronic communications networks.

also be able to follow the proceedings. It is essential that, in this case, the public nature of the hearing is ensured at the designated venue.

The Pp. has not substantially altered the rules governing remote hearings, but it changes the term to ‘hearing conducted via an electronic communications network’. A further step forward is that, in the context of evidence – provided the owner of the object to be inspected does not object – it also allows for the use of an electronic communications network when conducting an inspection, and further permits hearings to be conducted in this manner where the personal protection of a witness so warrants.²¹⁸

Finally, I would point out that no statistical data is available regarding remote hearings in civil proceedings, primarily because such hearings are predominantly used in criminal proceedings.²¹⁹

III.5.2. Simplified telecommunications attendance

The emergency legislation in force during the pandemic, which has had a fundamental impact on the legal system, also provided an opportunity – albeit out of necessity dictated by the situation – to make use of the electronic channels widely available in everyday life (e.g. personal computers, laptops, tablets, mobile phones) to maintain the functioning of the justice system.

Based on practical experience, it became apparent after the end of the period in question that it would still be worthwhile to allow the continued use of simpler solutions that had already been tried and tested in practice, and to incorporate these into procedural legislation. It is worth noting that the author of a study, drawing on experience gained as a civil judge within the court system during the pandemic, has already made a proposal in this regard.²²⁰

218 Section 622(1) of the Code of Civil Procedure

219 See, for example: Report of the President of the National Judicial Office for 2023.

<https://birosag.hu/beszamolok/az-orszagos-birosagi-hivatal-elokenek-2023-evi-beszamolaja>, p. 65. Downloaded: 17 March 2025.

220 András TÓTH: Civil procedural law during the coronavirus pandemic. In: Gyula Bándi – Anett Pogácsás (eds.): *‘Law in times of crisis’ – Selected doctoral student studies*. Pázmány Press. Budapest, 2023. pp. 399–400.

The legislature first made it possible in criminal proceedings, from 1 March 2022, for the court, the public prosecutor's office and the investigating authority to order, for the purpose of ensuring attendance via telecommunications means, that a person obliged or entitled to attend a procedural act use the means at their disposal.²²¹ It is important – and this also applies in the context of civil procedural law – to note that the flexibility of 'available' electronic devices is accompanied by a lower degree of authenticity, which – once the health protection needs arising from the pandemic no longer exist – can only be applied subject to enhanced safeguards and counterbalances.²²²

Experience was also available in the field of civil proceedings,²²³ and so, following the pandemic, there was a need in this area too for the wider application of a simplified form of digitalisation.

As a result, Section 95 of Act XVII of 2024 on the amendment of laws relating to the administration of justice supplemented Chapter XLVII of the Code of Civil Procedure with a new Sub-chapter 161 entitled 'Simplified telecommunications presence'. This legal institution essentially constitutes a simpler form of remote hearing, in that if the conditions for ordering a hearing via an electronic communications network, as set out in the Pp., are met, and the court deems the hearing may be conducted in such a way that the person to be heard is present at a location (the place of the hearing) other than the venue designated for the procedural act (e.g. the hearing) and uses the telecommunications equipment at their disposal. Presumably, the legislator intended to introduce this provision for cases where the court considers that, in the given instance, it is not strictly necessary to ensure compliance with the stricter conditions for remote hearings, and, for reasons of procedural economy, efficiency or some personal circumstance (e.g. the person to be heard is a bedridden patient), considers communication via the means available to the person to be heard to be sufficient.

221 Section 126/A of Act XC of 2017 on Criminal Procedure (Be.).

222 Linda PETŐ – Zsolt CZÉKMANN: Experiences of remote hearing procedures in criminal proceedings, with particular regard to the Covid-19 pandemic. *Infokommunikáció és Jog*, 2022/2, p. 23; Anna KISS: On remote hearings. *Prosecutors' Journal*, 2015/5, pp. 31–33.

223 See Section IV.3.2.

As with remote hearings, a device transmitting both video and audio simultaneously ensures a direct link between the designated venue of the procedural act and the venue of the hearing, but, unlike remote hearing, the conditions necessary to ensure the operation of a closed telecommunications network need not be in place at the venue of the hearing; instead, the person to be heard uses the telecommunications device at their disposal. Consequently, only devices capable of simultaneously transmitting video and audio recordings may be used. The Pp. does not mention this, but naturally the device available to the person to be heard must also have the appropriate programme (software, application) that can be used by the court.

Conducting the hearing in this manner requires the cooperation of the person to be heard (according to the Pp., their prior consent²²⁴), upon which the court orders the simplified telecommunications presence by order.

The Pp. stipulates that in such cases, only the person to be heard may be present in the room serving as the venue for the hearing, as well as any person whose presence is otherwise permitted or required by law. In this regard, the Pp. is rather terse, so questions of legal interpretation are likely to arise, the first being: whose hearing may be conducted in this manner? According to the explanatory memorandum, the application of this legal institution may arise in relation to ‘a party to the proceedings, a witness or an expert’, from which it follows that the question may arise as to whether it is applicable to representatives – since they do not fall within the scope of Chapter V of the Pp. – (a negative answer would be somewhat unreasonable, although this might also follow from the fact that a hearing does not arise in relation to the latter).

For reasons of due process and to prevent abuse, the procedural act may not proceed if a person is present in the hearing room whose presence is otherwise not permitted by law, or if, during the procedural act, the court has reasonable doubts regarding the identity of the person to be heard, regarding the voluntary nature of their participation in the proceedings or the impartiality of their testimony or statement. The court may also terminate the proceedings if, during the hearing, the person being heard fails to cooperate: despite the court’s order, they fail to ensure that the court can see

224 Section 627/A(4)

them and all persons present at the same time, or, where necessary, every part of the hearing room.

With regard to this new legal institution, practice will determine whether it lives up to the hopes placed in it, and whether there is a justification for online presence under less strictly regulated conditions compared to remote hearings during periods other than emergencies. Answers will also need to be provided, for example, to the question of whether a hearing conducted via an electronic communications network can be regarded as the party's personal appearance,²²⁵ as well as to the question of whether it is possible to hear a minor in this manner.

In any case, the application of this legal provision will essentially depend on the court's discretion, as the legislature grants the court broad discretion in this regard under Section 627/A(1) of the Code of Civil Procedure: "If the conditions for ordering a hearing via an electronic communications network as set out in this Act are met, *and the court considers* that the hearing may be conducted in this manner....".

III.5.3. Expedited proceedings²²⁶

The expedited proceedings emerged as an exception to the uniform rules of procedure of the Code of Civil Procedure, as a distinct type of proceedings characterised, on the one hand, by its speed: in principle – provided that no evidence needs to be taken – it takes place outside a hearing, but if a hearing is nevertheless required, it must primarily be held 'by electronic means'.²²⁷

225 See: Section 432(6) of the Code of Civil Procedure. A party's personal appearance is mandatory at the hearing to initiate proceedings. The court is obliged to hear the parties in person, unless the party is at an unknown location or if hearing them is prevented by an insurmountable obstacle.

226 For dogmatic and grammatical comments on the title of the Act, see: Tibor PATAKY: Some thoughts on the Act on Expedited Proceedings, *Law of Damages and Insurance*, 2020/3; Katalin SZEGHŐ: Issues of law application in expedited proceedings. *Magyar Jog*, 2021/7-8; Mónika CSÖNDES: Comments from the perspective of civil substantive law on the title and text of Act LXX of 2020 on 'Expedited proceedings for compensation for damage caused by a criminal offence and for damages for pain and suffering'. *Corvinus Law Papers* (CLP), 1/2021, p. 7.

227 For the main features of expedited proceedings that are less relevant to digitalisation, see: KISS, op. cit., pp. 157–164.

Act LXX of 2020 on expedited proceedings for compensation for damage caused by a criminal offence or for damages (hereinafter: Gyptv.) entered into force on 9 July 2020 and, according to the explanatory memorandum, aims to provide procedural relief to victims after the final conclusion of criminal proceedings who did not assert their claims as civil law claims in the criminal proceedings and did not bring a civil action for that purpose. As a general rule, the proceedings take place out of court; however, if evidence other than documentary evidence is to be taken, the court shall hold a hearing – according to the explanatory memorandum, in order to avoid or significantly reduce the secondary victimisation of the victim (plaintiff), so that the plaintiff does not have to meet the defendant in person (the defendant) – primarily via an electronic communications network or ‘other means suitable for the transmission of images and sound’.

Pursuant to the first sentence of Section 11(1) of the Gyptv., this means that the victim’s ‘presence’ may be ensured either through the remote hearing discussed in point 4.2.3.2 or through the simplified telecommunication presence described in point 4.2.3.3.

It is worth noting that in this type of proceedings, provided the conditions set out in the Pp. are met, the court may order that the minutes be drawn up by means of continuous recording.²²⁸

The question may arise as to whether it is worth introducing this type of proceedings outside the current scope of the Gyptv., and whether it is appropriate to apply rules of differentiated procedure, deviating from the general rule of the Pp., in other types of cases requiring an urgent decision. In my view, the expedited procedure has numerous advantages: the ability to reach a swift decision in itself, since even in cases involving claims of a lower value, it is neither necessary nor possible to initiate a payment order procedure;²²⁹ the parties are entitled to have their costs recorded; jurisdiction lies with the courts of general jurisdiction (where the necessary electronic infrastructure is, in any case, more likely to be available); the procedure is outside the ordinary course of law and shorter time limits

228 Section 11(2), second sentence, of the Gyptv.

229 Gyptv. Section 2(2)

apply than those set out in the Code of Civil Procedure; furthermore, the procedure does not follow a split structure, i.e. it is not divided into a preliminary hearing and a hearing on the merits; in appeal proceedings, the court decides without a hearing. Taking all this into account, the application of this type of action would be justified in copyright litigation brought by collective management organisations in connection with small-scale use. It might also arise in cases concerning maintenance for a minor child – provided such proceedings are not brought in the course of matrimonial proceedings – with due regard to the interests of the minor child; however, given the differing rules on jurisdiction, this solution is difficult to envisage in such cases.

III.6. Implementation of electronic administrative services

III.6.1. The first steps: the development of the Court Electronic Information and Notification System (BETFR)

Among the development steps of the BIIR, I have already mentioned the project,²³⁰ the fundamental aim of which was to strengthen the service-oriented nature of the court organisation through digitalisation, to provide more accurate and faster data provision in litigation matters, and to establish an electronic information and notification system to ensure the verifiability of the available data.²³¹

Under the Court Electronic Information System, the parties and their representatives – following prior registration via the client portal – can view the case data relevant to them on the dedicated website²³², regard-

230 EKOP 2.A.2. 'Hírvivő' project.

231 Judit GYARMATHY: The challenges of court administration. In: Tamás Sárközy (ed.): *From the presentations of the 37th Itinerant Conference of Lawyers*. Proceedings of the Hungarian Lawyers' Association. Hungarian Lawyers' Association. Budapest, 2015, pp. 15–16.

232 According to the information currently (April 2025) available at <https://eakta.birosag.hu> under the 'Notifications' menu item, various notifications can be set up in the 'Action' column regarding cases, which are as follows:

- Criminal proceedings
- Postponement of hearing
- Receipt of expert opinion

less of time or place, 24 hours a day and receive information on who has submitted which documents in the case. In this way, authorised persons can effectively gain access to the BIIR system's registry data, but it has not yet been possible to view the content of the documents listed there within this framework.

The Court Notification System, meanwhile, enables the parties and their representatives – again following the above registration – to receive notifications via SMS or email regarding certain procedural developments in their ongoing cases (e.g. the receipt of a submission or an expert opinion).

These services are based on BIIR data, and the detailed rules governing their use are set out in Decree 20/2014 (XII. 23.) IM amending Decree 14/2002. (VIII. 1.) IM on the rules of court administration (hereinafter: BÜSZ).

These developments are of outstanding significance, as they have made it possible to establish the e-file system; electronic access to court documents has been realised through the further development of BETFR, which previously only provided access to registry data, as detailed in the following section.

Table 2 below illustrates the usage data for BETFR as an e-government service (data available up to the end of 2023):

-
- Submission of an appeal
 - Submission of documents
 - Hearing scheduled (the system sends a notification 8 days before the hearing)
 - Request for a hearing
 - Civil/Commercial/Administrative/Employment law
 - Postponement of hearing
 - Receipt of expert opinion
 - Submission of an appeal
 - Submission of documents
 - Hearing scheduled (the system sends a notification 8 days before the hearing)
 - Counterclaim received

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

	2017	2018	2019	2020	2021	2022	2023
Number of registrants (persons)	975	1,252	1,538	3,556	3322	3266	3392
Number of cases involving registration (cases)	495	786	830	2086	1060	752	1325
Number of users subscribed to receive SMS and email messages (persons)	311	818	1165	2221	1133	807	n.a.
Number of SMS and email messages sent (units)	1038	1058	3523	7410	6631	6600	6666

Table 2: Data on the use of BETFR (compiled by the author)

Source: Annual report of the President of the National Office for the Judiciary.²³³

The data show that in 2020, the year most affected by the Covid-19 pandemic, a remarkably high number of people registered to use the system, and the number of users remained high in the subsequent period as well, thus making it possible for an ever-wider range of clients to obtain information on the status of their court cases quickly and conveniently.

233 2017 Annual Report of the President of the National Judicial Office
<https://birosag.hu/sites/default/files/2018-10/beszamolo2017.pdf>
 2018 Report of the President of the National Judicial Office
<https://birosag.hu/beszamolok/az-orszagok-birosagi-hivatal-elnokenek-2018-evi-beszamoloja>
 2019 Annual Report of the President of the National Judicial Office
<https://birosag.hu/beszamolok/az-orszagok-birosagi-hivatal-elnokenek-2019-evi-beszamoloja>
 2020 Report of the President of the National Judicial Office
<https://birosag.hu/beszamolok/az-orszagok-birosagi-hivatal-elnokenek-2020-evi-beszamoloja>
 The 2021 Report of the President of the National Judicial Office
<https://birosag.hu/beszamolok/az-orszagok-birosagi-hivatal-elnokenek-2021-evi-beszamoloja>
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<https://birosag.hu/beszamolok/az-obh-elonokenek-2022-evi-beszamoloja>
 2023 Annual Report of the President of the National Judicial Office
<https://birosag.hu/beszamolok/az-orszagok-birosagi-hivatal-elokenek-2023-evi-beszamoloja>
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III.6.2. Implementation of the e-file: electronic access to documents

Previously, clients could only view the documents relating to their litigation in person, in paper form, at the case management office within the court building. The BETFR represented a step forward as an electronic service enabling faster access to case-related information, through which users can obtain information on registry data and incoming submissions and documents.

Another project,²³⁴ namely the Digital Court project, has enabled clients to access documents relating to their civil litigation cases online, i.e. via the internet, without having to be physically present. Full access to e-files, i.e. the electronic inspection of court case files, has been implemented in civil, commercial, labour and administrative proceedings initiated after 1 January 2020. This has essentially resulted in the digitisation of all documents in the court file, the provision of electronic access to case files for judges, and the implementation of online document access for clients, available 24 hours a day from anywhere, regardless of time or place.

In the Pp., the legal basis for this, in relation to electronic communication, is the provision of the right to inspect documents via electronic access.²³⁵ The detailed rules in this case are also contained in the BÜSZ, as with the BETFR.²³⁶ On this basis, the party, the intervener, the interested party, their representatives and the public prosecutor may access the electronic documents contained in the electronic case file relating to their pending case via the Client Document Access System (hereinafter: ÜIR). Pursuant to Section 12/H(1) of the BÜSZ, the applicant may request access rights in a case to which they are entitled under the client information notice issued by the OBH and published on the central website.²³⁷

234 Project for the further digitisation of court administration (Digital Court) KÖFOP-1.0.0-VE-KOP-15-2017-00052

235 Section 620 of the Code of Civil Procedure [Access to documents via electronic means] In order to exercise the rights set out in Chapter 50, the court shall, in accordance with the provisions of the law, provide those entitled to inspect documents with electronic access to the case files.

236 BÜSZ Section 12/G-I.

237 This client information sheet is available at <https://eakta.birosag.hu> under the 'Inspection' menu item. Inspection is currently (April 2025) permitted for the following categories of cases and registers:

Naturally, this system also allows access to documents which the applicant is entitled to view (inspect) under the law; provided the technical conditions are met, the applicant may make a non-certified copy of such documents. Consequently, documents classified as confidential cannot be viewed via the ÜIR (the client may view such documents at the court's client

Criminal cases

- First-instance criminal cases (B.)
- First-instance juvenile criminal cases (Fk.)
- Criminal appeals (Bf.)
- Juvenile criminal cases on appeal (Fkf.)
- Review case (Bfv.)
- Criminal case at third instance (Bhar.)
- Criminal case involving a juvenile (Fkhar.)
- Appeal against a second-instance court's order setting aside a judgment (Hkf.)
- Military criminal case (Kb.)
- Appealed military criminal case (Kbf.)
- Motion for a retrial (Kpi)

Commercial cases

- Litigation between business organisations (G.)
- Appealed litigation between business organisations (Gf.)
- Commercial review cases (Gfv.)

Administrative cases

- First-instance administrative case (K.)
- Appealed administrative case (Kf.)
- Administrative review case (Kfv.)

Labour law

- First-instance labour litigation case (M.)
- Appealed labour litigation case (Mf.)
- Labour review case (Mfv.)

Civil division

- First-instance civil litigation case (P.)
- Civil appeal case (Pf.)
- Civil review case (Pfv.)

Non-contentious proceedings

- Objection lodged on the grounds of excessive delay in proceedings (Bkif.)
- Appealed non-contentious criminal case (Bpkf.)
- Objection lodged on the grounds of excessive delay in proceedings (Gkif.)
- Appealed non-contentious case between business organisations (Gpkf.)
- Objection lodged on the grounds of excessive delay in proceedings (Kökif.)
- Appealed administrative non-contentious case (Kpkf.)
- Appealed military criminal non-contentious case (Kbpkf.)
- Objection lodged on the grounds of excessive delay in proceedings (Kkif.)
- Objection lodged on the grounds of excessive delay in proceedings (Mkif.)
- Appealed non-contentious labour case (Mpkf.)
- Appeal in a civil non-contentious case (Pkf.)
- Objection lodged regarding the proceedings (Pkif.)

centre or administrative office, upon request and in accordance with the relevant procedural rules, subject to the court's authorisation).

In order to accurately establish the applicant's eligibility, access is granted on a case-by-case basis following separate registration and prior electronic identification.

Authorised persons may access electronic documents not only online via the ÜIR interface, but also at the registry office within the court building without the registration described above. This access authorisation – following verification of eligibility – is provided by the Registry Office System (hereinafter: LIR) 238 application at²³⁸ in the registry office. This option also provides a solution in cases where the case files are held at another court. Naturally, alongside all these modern, electronic solutions, it remains possible to view paper-based court documents at the court registry.

The data on the use of the ÜIR and LIR as electronic case management services is illustrated in the table below (data available up to the end of 2023):

	Client Document Access System (ÜIR)		Registry Office Document Viewing System (LIR)
Year	Number of requests for access	Number of digital accesses	Number of accesses
2020	1,922	16,217	206
2021	4,047	55,754	241
2022	4036	62,752	212
2023	5,409	83,719	139

Table 3: Data on the use of the ÜIR and LIR (compiled by the author)
Source: Annual report of the President of the National Judicial Office.²³⁹

²³⁸ BÜSZ Section 12/I.

²³⁹ Report of the President of the National Judicial Office for 2020
<https://birosag.hu/beszamolok/az-orszagok-birosagi-hivatal-elnokenek-2020-evi-beszamoloja>
 The 2021 Report of the President of the National Judicial Office
<https://birosag.hu/beszamolok/az-orszagok-birosagi-hivatal-elnokenek-2021-evi-beszamoloja>
 Downloaded on: 19 August 2024
 The 2022 Report of the President of the National Judicial Office, pp. 41–42.

The introduction of the system marks a turning point, bringing significant changes to the lives of litigants, their representatives and judges alike: studying court documents and preparing for cases is no longer a location-bound activity; there is no longer any need for paper-based files, as their ‘mirror’, an exact copy, is the e-file itself, accessible online.²⁴⁰

The steadily increasing number of requests for access and the cases concerned demonstrate the acceptance of this legal institution. The existence of the e-file was particularly valued during the pandemic, when, due to the increased use of remote working, the online, and in this context – as part of measures to protect against the then largely unknown effects of the coronavirus causing the emergency – the Emergency Cabinet²⁴¹ established by the President of the National Office for the Judiciary did not even consider proposing the application of a ‘document quarantine’²⁴² for paper-based documents. Nevertheless, practice has vindicated Csaba Németh’s position, according to which the digitisation of document access for courts leads to long-term cost savings, as it frees up human resources and storage capacity, whilst also reducing the environmental impact, since there is no need to travel to the court registry to request paper-based copies.²⁴³

However, whilst I fully agree with the clear need for e-files, I also fully agree with the view expressed by Szabolcs Kékedi²⁴⁴: the current dual system of document management – paper-based and electronic – places a significant administrative burden on the courts, as paper-based documents must

<https://birosag.hu/beszamolok/az-obh-elonokenek-2022-evi-beszamolaja>

The 2023 Report of the President of the National Judicial Office, pp. 45–47.

<https://birosag.hu/beszamolok/az-oroszagos-birosagi-hivatal-elokenek-2023-evi-beszamolaja> Downloaded: 22 March 2025

240 Around this time, Dutch courts were also in the process of transitioning to electronic proceedings, a process described in detail by a Dutch judge and researcher; see: REILING, Dory: *Digital Justice: Nice to Have but Hard to Achieve* (translated by the author). In: *De Souza and Spohr, Technology, Innovation, and Access to Justice*. Edinburgh University Press, Edinburgh 2021. pp. 131–157.

241 OBHE Decision No. 36/2020 (16 March).

242 Recommendation No. V of the Emergency Cabinet on special rules for the handling of paper-based documents during the extraordinary judicial recess

https://birosag.hu/sites/default/files/2020-04/birosagi_kozlony_2020_3_tordelt.pdf, p. 63.

Downloaded: 24 August 2024

243 NÉMETH, op. cit., p. 4.

244 Szabolcs KÉKEDI: The future of court digitisation, or how did electronic communication become the key to adjudication in an emergency? In *Medias Res* 2020/2, pp. 308–321.

be digitised, whilst electronic documents must be converted to paper form, in order to ensure the completeness of both the electronic and paper-based files. In the long term, electronic document management will undoubtedly come to the fore, and its technical and regulatory framework must be established uniformly across the entire court document management system. At the same time, we must not lose sight of the fact that, for reasons of security, the risks associated with exclusively electronic document management must also be eliminated: We have recently experienced the energy crisis, the lesson of which is that if the necessary resources are not available (e.g. in the event of a prolonged power cut), we cannot use digital achievements in any form. Only by establishing a properly regulated system that operates reliably and safely even under critical conditions is it possible to completely eliminate paper-based document management.

III.7. Video and audio recording in meeting rooms

The minutes play a key role in civil proceedings: they record the procedural acts and statements made during the proceedings in the form of a public document. Its fundamental purpose is to enable the court hearing the case (including appellate courts), the parties and those entitled to access it to ascertain with certainty the course of the proceedings and the relevant statements and communications made therein. For decades, there was no doubt regarding the preparation of the minutes in written form; to facilitate this in civil proceedings, an audio recording – usually made during the hearing and recording what is stipulated in the procedural law by the judge (presiding judge) – is most commonly used²⁴⁵; the presence of a court clerk is now increasingly rare. With the advance of digitalisation, and during the codification process of the Code of Civil Procedure, primarily with reference to international examples, the idea arose in this context that what was said and what occurred during a given procedural act could also be recorded in

245 For the definition, see: Section 2(a) of Decree 24/2017. (XII. 22.) IM: For the purposes of this decree, an audio recording means: audio material summarising the content of the minutes, recorded by the presiding court simultaneously with the relevant procedural act for the purpose of preparing the written minutes.

another, authentic manner, even to the extent that such a recording could qualify as minutes.

Ultimately, the Pp. retains the preparation of written minutes as the general rule, but allows that, where the technical conditions are available, the minutes may, at the request of a party, be prepared by means of a continuous recording capturing both image and sound simultaneously (hereinafter: continuous recording). In addition, the court may order the making of a continuous recording of its own motion.

The rules governing the making of continuous recordings are set out in Decree 24/2017. (XII. 22.) IM, which – amongst other things – sets out the method of authenticating the recording,²⁴⁶ as well as the rules governing its playback, the making and issuing of copies thereof, and the storage, safe-keeping and possible deletion of the recording.

Originally, the regulation stipulated that, during the initial, case-filing stage of the proceedings, only written minutes could be drawn up, which the legislator justified by the introduction of the split-trial structure: for it is during the case-taking stage that the parties' factual and legal submissions and statements – which are significant for the resolution of the legal dispute – are recorded, and the systematisation and clarity of these are of key importance for the efficient conduct of the proceedings: this, in turn, can be ensured by a summarised, written record.²⁴⁷

Consequently, initially it was only possible to make continuous recordings during the substantive hearing phase, so naturally this could only arise in first-instance proceedings.

A significant change was brought about by Act XVII of 2024 on the amendment of laws relating to the administration of justice, which, with effect from 9 July 2024 – according to the explanatory memorandum, in view of the rapid development of digital technology, the benefits offered by digitisation, and to facilitate the wider application of the achievements of the tech-

²⁴⁶ Following the recording of the continuous audio, the court shall authenticate it – immediately after the conclusion of the relevant procedural act, but no later than within three working days – by means of an electronic stamp [Section 3 of Decree No. 24/2017 (22 December) of the Ministry of the Interior].

²⁴⁷ For details, see: Explanatory notes to Section 159 of the Pp.

nological revolution in the field of the administration of justice – extended the possibility of recording proceedings by means of continuous video and audio recording to all stages and phases of civil proceedings. Consequently, continuous recording is now permitted not only during the substantive proceedings of first instance, but also during the pre-trial phase and even in appeal proceedings.

Under the law, the only obstacle to the use of continuous recording at a party's request is if the technical conditions are not met: that is, if a courtroom equipped with the appropriate equipment is not available.

Under the new regulations, there is no 'duplicate recording'; that is, where a continuous recording is made, the recording itself constitutes the minutes, and no written minutes are produced alongside it. In this case, however, in order to ensure better traceability of the events recorded on the recording, a written extract of the minutes must be prepared, either by the minute-taker present during the proceedings or subsequently, based on the recording. This extract must be suitable for establishing the sequence of events (e.g. the date and place of the hearing, a record of those present, the starting time of the hearing of each person and of the inspection) and – in accordance with the reasoning – for reasons of certainty, shall contain the orders issued by the court during the proceedings.

The indication of the start time of the hearing of each person, the inspection where applicable, and the court's summary – referred to as 'marking' in the explanatory memorandum – is necessary to facilitate navigation within the continuous recording and to locate the necessary statements and events.

Another new provision, effective from 9 July 2024, stipulates that where a continuous recording is made, the court shall summarise the parties' applications, statements and motions relevant to the resolution of the case – taking into account the parties' comments – for the purpose of preparing a written extract of the minutes.²⁴⁸ The legislator provides a more detailed explanation of the terse wording of the Act in the explanatory memorandum, from which it follows that this provision was necessary so that statements relevant to the decision of the case could be easily recalled without having

248 Section 159(5a) of the Pp.

to review the full recording of the proceedings.

In my view, this amendment is difficult to reconcile with the original purpose of the legal institution: the imprecisely defined concept of a ‘summary’ may, in practice, lead to problems in the application of the law and, consequently, to the prolongation of proceedings. It may be asked how the ‘summary’ relates to the legal institution of the summary under Section 191(1) of the Code of Civil Procedure with regard to the hearing on the admissibility of the action, when and to what extent it must be drawn up, and whether its content gives rise to any legal consequences.

Related to this is the fact that, in my view, the solution under the previous regulations regarding continuous recording was sufficient for first-instance proceedings, i.e. it need only cover the substantive hearing phase. In this case, the advantage of this approach prevails, namely that the recording—e.g. a witness’s testimony or an expert’s statement—is available in its entirety.²⁴⁹ In contrast, during the preparatory proceedings, the court and the parties are free to clarify the scope of the legal dispute; as a general rule, the parties may freely amend their applications and statements, and in this context, written minutes are better suited to eliminating the recording of statements unrelated to the substance of the legal dispute; so I consider continuous recording to be unnecessary in that context.

It is also necessary to consider how the new digital solution will transform the working methods of the courts – particularly the appeal courts – which is particularly relevant when preparing for first-instance proceedings involving extensive evidentiary proceedings.

In any case, it will become clear in practice whether this amendment lives

249 Furthermore, it would be advisable to allow access to a transcript of the recorded audio (in international practice: transcriptum), which could be produced without human resources using speech recognition software, on the understanding that the continuous recording constitutes the minutes. See: On the website of the Louisiana Nineteenth Circuit Court, a verbatim transcript of court proceedings can be requested (translated by the author):

<https://19thjdc.org/transcripts-court-minutes>

Downloaded: 28 August 2024. In England, a request for the written transcript of a court hearing or hearing may be submitted using a form designed for this purpose (translated by the author):

<https://www.gov.uk/government/publications/order-a-transcript-of-court-or-tribunal-proceedings-form-ex107> Downloaded: 28 August 2024

up to the hopes attached to it,²⁵⁰ all the more so because, above all, the technical conditions must be created for its use, and in such a way as to facilitate high-quality and timely adjudication.

As regards practical implementation, the explanatory memorandum to Chapter²⁵¹ of Draft Law No. T/9894 on Hungary's 2025 central budget, in the section on Chapter VI. Courts, an additional budgetary requirement is cited, referring to the amendment to the Code of Civil Procedure that creates the possibility of continuous recording for the court recording service, as well as the possibility of ordering hearings with simplified telecommunications attendance²⁵². Consequently, in these areas – naturally, subject to the availability of funds – there are plans to procure and operate the IT equipment necessary to achieve the objectives set out in the legislation.

Another development related to this topic is that the four-party agreement concluded on 22 November 2024 between the Ministry of Justice and the heads of judicial organisations sets out in point III.4.d) of²⁵³ that one of its objectives is that “the justice system should not be left behind in terms of technological advances, so that – whilst maintaining appropriate safeguards – online attendance is made possible for participants in the proceedings, the public and law students alike”. Given the wording, large-scale IT development will certainly be necessary, and the details of the regulations are not yet known. A likely – and sensible – solution would be to implement ‘online attendance’ using the same system as that used for video and audio recording in the courtroom, taking into account the similar requirements.

250 On practical experience gained in criminal cases Gábor Bálint NAGY: An examination of the necessity of mandatory audio and video recording in courtrooms. *Eljárásjogi Szemle*, 2016/3, pp. 5–12.

“Practical experience shows that judges exercise the option provided by this legislation ex officio only in exceptional cases, and the court does not ‘formalise’ the audio recording even in those instances where it does in fact take place – albeit to facilitate the work of the court clerk. The latter has the consequence that the written minutes are officially based on the hearing notes prepared by the court clerk, and the parties are not entitled to listen to the audio recording – which does not officially exist anyway – or to request a copy of it.”

251 Draft Act No. T/9894 on the 2025 Central Budget of Hungary

<https://www.parlament.hu/irom42/09894/09894KIEGSZ002.pdf> Downloaded: 17 March 2025

252 See section III.4.2.3.3 for details.

253 https://obt-jud.hu/sites/default/files/sajtokozlemenyek-mellekletek/1183_001.pdf Downloaded: 17 March 2025.

III.8. Speech recognition and transcription software

Speech recognition and transcription software has been tested within the court system since 2016 with a view to using it as effectively as possible for the drafting of judgments and minutes. These programmes are capable of converting the speaker's dictation or an audio recording into immediately editable text, and are also capable of recognising acronyms, abbreviations, punctuation marks, Arabic, Roman and fractional numbers, and legal references. The text they record can be integrated into a word processing programme.²⁵⁴

During the testing completed in 2017, the usability, training time, text recognition rate and time savings of the two available systems were continuously compared at, and the procurement was made based on these findings, resulting in 726 units being used in 2018, and nearly 900 units in 2019.²⁵⁵

No data is available regarding the use of speech recognition and transcription software in recent years. In the time since then, due to rapid technological developments, other artificial intelligence-based software has become available²⁵⁶, the introduction of which should be considered, also in the interests of improved searchability within audio recordings and documents and efficient resource management.

III.9. Summary

The digitisation process launched in the courts in the early 2000s essentially progressed in line with the strategy set out in various projects, most of which were funded by the EU. With the completion of the Digital Court project, the most significant result – and one essential for further developments – was achieved: the e-file.

254 Speech recognition software is replacing cassette recorders in the courts
<https://birosag.hu/hirek/kategoria/birosagokrol/beszedfelismero-szoftverek-veszik-kazetas-magnok-helyet-birosagokon> Downloaded: 26 April 2021

255 Report of the President of the National Judicial Office for the first half of 2019
<https://birosag.hu/beszamolok/az-orszagos-birosagi-hivatal-elnoke-neh-beszamolaja-2019-i-felev> Downloaded: 26 April 2021

256 See section V.1.3.2.

As for the period from 2020 onwards, rather than comprehensive, large-scale innovations, the focus has been on system operation and the developments required by legislative changes that have taken place in the meantime (e.g. minor enhancements to BIR-O and ITR, compilation of IForm forms replacing ÁNYK forms, introduction of a long-term archiving solution, renewal of the guardianship registration system, development of the general power of attorney register, etc.).²⁵⁷ The development of the remote hearing system is particularly noteworthy: in the first half of 2021, 30 new mobile terminals were installed in the courts, and the utilisation of the equipment required to use the system is also rising steadily; the number of remote hearings has increased more than four and a half times compared to 2019.²⁵⁸

The task for the near future, in order to promote the competitive administration of justice mentioned in the Introduction, is to study and integrate the latest technological advances, alongside maintaining and operating the system. It will be essential to examine the applicability of artificial intelligence and blockchain technology in the field of the administration of justice and to develop appropriate methods for their use,²⁵⁹ however, as this exceeds the scope of this monograph, I shall not explore these avenues here.

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- 257 Report of the President of the National Judicial Office for 2021, pp. 40–43.
<https://birosag.hu/beszamolok/az-orszag-os-birosagi-hivatal-elnokenek-2021-evi-beszamolaja>
 Report of the President of the National Judicial Office for 2022, pp. 41–42.
<https://birosag.hu/beszamolok/az-obh-elonokenek-2022-evi-beszamolaja>
 The 2023 Report of the President of the National Judicial Office, pp. 45–47.
<https://birosag.hu/beszamolok/az-orszag-os-birosagi-hivatal-elokenek-2023-evi-beszamolaja>
 Downloaded on 22 March 2025
- 258 The 2023 Report of the President of the National Judicial Office, p. 61.
https://birosag.hu/sites/default/files/2023-04/obh-elnokenek_2021-evi-beszamolaja.pdf
 Downloaded: 22 March 2025.
- 259 András OSZTOVITS: In the Web of Technology – The Present and Possible Future of Private Law Enforcement. In: Zsolt Zódi (ed.): *Legal Technologies. Digital Law Enforcement*. Ludovika University Press. Budapest, 2022. pp. 293 and 296–298; for further reading on this topic, see Chapter V of the monograph on international experiences and Chapter VI on Hungarian experiences.

IV. The application of the achievements of digitalisation – the functioning of the justice system during the pandemic²⁶⁰

In the previous chapter, I explained in detail that the judicial system has been undergoing a digital transformation for almost a decade: the National Office for the Judiciary (OBH), which is responsible for the central administration of the courts, has sought through various IT developments to ensure the technical conditions necessary for the smooth operation of electronic communication between the courts and clients, and to further develop electronic case management in an optimal, client-friendly manner. When the Digital Court project was completed, no one could have imagined that, just a few days later, we would have to use these solutions on a regular basis in our day-to-day work due to the pandemic, and that for a time, handling cases without court hearings would become the norm. According to Zsolt Zódi, the Covid-19 pandemic can be seen as a kind of experiment being conducted across much of the world, testing whether the legal system can function without physical presence or with minimal physical presence.²⁶¹

260 The content of this chapter – reflecting the legal framework at the time – appeared in the following publications: Judit GYARMATHY, *Emergency Regulations and Their Impact on the Review Procedure*. In: *Law and State*. 23rd National Conference of Doctoral Students in Law, 2022. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Science, pp. 63–72; Judit GYARMATHY: *Civil litigation before the Supreme Court during the coronavirus pandemic*. In: Balázs Bodzási – Zoltán Csehi (eds.): *Covid-19 and economic law. The impact of the coronavirus pandemic and the state of emergency on Hungarian economic law*. Budapest, Hungarian Lawyers' Association, 2023 (hereinafter: GYARMATHY 2023), pp. 171–198.

261 Zsolt ZÓDI: *The Pandemic, the Legal Sphere and Technology – How did legal systems weather the pandemic, what role did technology play in this, and how lasting will the changes be?* In *Medias Res*, 2020/2 (hereinafter: ZÓDI In *Medias Res* 2020), p. 339.

IV.1. The emergence of the public health emergency

It was at the very end of 2019 that Professor Richard Susskind visited Hungary as part of the Legal Innovation Day organised by Wolters Kluwer Hungary and KPMG. He listened with interest to the achievements of the Hungarian courts in the field of digitalisation and shared his thoughts on the spread of ‘legal technology’, which also affects the courts.²⁶² He pointed out that, in the context of digitalisation in the justice sector, rather than simply simplifying processes, we can now expect them to be transformed, citing online courts as an example.²⁶³

Just a few months after this event, an extraordinary judicial recess was introduced in Hungary due to the pandemic situation; after 15 days, the courts resumed their normal operations, albeit under exceptional circumstances and using technological tools. Moreover, the ever-changing legislative framework, which sought to address the evolving situation on a day-to-day basis, and the shifting regulatory landscape presented challenges for the courts, legal professionals and clients alike. To quote Sándor Udvary:²⁶⁴ the pandemic situation “threatened the very essence of procedural law”: as a result, the principles of immediacy and publicity had to be restricted for health reasons.

In this chapter of the monograph, following a brief overview of the concept of the special legal order – with a focus on civil matters – I examine how emergency legislation affected the functioning of domestic courts in general, and more specifically the Hungarian Supreme Judicial Body, the Curia, which ensures the uniformity of the application of the law by the courts, and, within the altered framework of its operations – whilst utilising the achievements of digitalisation – to what extent it was able to fulfil its

262 <https://birosag.hu/hirek/kategoria/birosagokrol/kivancsi-magyar-birosagi-digitalizacio-ra-vilag-legismertebb-jovokutato> Downloaded: 26 April 2021.

263 András OSZTOVITS: Thoughts on the courts of the near future – Richard Susskind: Online Courts and the Future of Justice. *Magyar Jog*, 2020/9, pp. 544–546; Bálint FERENCZ: The man who wanted online courts even before the coronavirus. Review of Richard Susskind’s book *‘Online Courts and the Future of Justice’*. **Pro Futuro – The Law of Future Generations**, 2020/1, pp. 192–200.

264 Sándor UDVARY: Civil procedural law in times of crisis. In: Balázs Bodzási (ed.): *Crisis and Law*. Proceedings of the Hungarian Lawyers’ Association 2023. Hungarian Lawyers’ Association. Budapest, 2023. (hereinafter: UDVARY 2023.) p. 239.

constitutional obligation to handle cases to a high standard and in a timely manner,²⁶⁵ For reasons of space, I shall not address the operation of the lower courts.²⁶⁶ With regard to developments in digitalisation, I would point out that I have already discussed these in earlier sections of the monograph; here I mention them from the perspective of their relevance to the topic insofar as their use during the emergency situation is significant. I also discuss how the caseload of the Supreme Court developed during the pandemic.²⁶⁷

It should also be noted that the pandemic naturally affected the administration of justice in the broader sense, but I will not discuss these in detail here due to space constraints.²⁶⁸

IV.2. The declaration of a state of emergency in Hungary

IV.2.1. Reflections on the concept of a special legal order

When the world is functioning in its usual, normal way, we generally do not need to concern ourselves with the rules that have been devised for situations deviating from peaceful, routine operations. However, when a threat or similar

²⁶⁵ For the grounds for the Supreme Court's closer examination, see section I.2.

²⁶⁶ For an analysis of the general impact of the challenges posed by the Covid-19 pandemic on civil proceedings – particularly at first instance – see: Balázs TIMÁR: Challenges facing the civil justice system in Hungary in the context of the coronavirus pandemic. In: Fruzsina Gárdos-Orosz – Viktor Olivér Lőrincz (eds.): *Legal Diagnoses. The Effects of the Covid-19 Pandemic on the Legal System*. Institute of Legal Studies, Centre for Social Sciences. Budapest, L'Harmattan, 2020, pp. 111–126, András OSZTOVITS – András TÓTH: Civil procedural issues during a state of emergency – a temporary or permanent shift in model? in: Péter Miskolczi-Bodnár (ed.): *A joint collection of papers by lecturers and students*. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Science. Budapest, 2021, pp. 211–239.

²⁶⁷ For the grounds for the Supreme Court's closer examination, see section I.2.

²⁶⁸ For further details, see Márk András ZAVACZKY: Application of the law in emergency situations in enforcement proceedings. *Glossa Iuridica*, Vol. VII, Special Issue, Law and the Virus, Károli Gáspár Reformed University, Faculty of Political Science and Law. Budapest, 2020, Balázs Szabolcs GERENCSÉR: Remote hearings and online interpreting in criminal proceedings. The European and domestic relevance of digital tools in the post-pandemic era. *Iustum Aequum Salutare* 2023/4, pp. 251–265, Judit GÁL: The new rules of compulsory cancellation proceedings in the light of the extraordinary legal order. In: Balázs Bodzási – Zoltán Csehi (eds.): *Covid-19 and economic law. The impact of the coronavirus pandemic and the state of emergency on Hungarian economic law*. Hungarian Lawyers' Association. Budapest, 2023, pp. 147–171.

event occurs, it is important that the state has at its disposal regulations suitable for managing the situation, taking into account the requirement for timely measures, whilst ensuring that human rights are respected, subject to appropriate, necessary and permissible restrictions. Szabolcs Till describes the special legal order as a system of norms of necessity and proportionality, temporarily deviating from the norm to ensure the sustainability of the state's effectiveness, an institution of last resort projected onto the rule of law.²⁶⁹ As István Sabjanics put it: "Just as the body reacts to a viral attack under extreme circumstances, so too does the state employ specific, rarely used measures to protect its citizens in the event of an emergency. However, a fever is not the body's normal state, nor can a state of emergency be the normal state of the (constitutional) state."²⁷⁰

The main question regarding the special legal order is how constitutional constraints can be relaxed in such a way that the applicable special, divergent rules also provide protection against situations arising from this relaxation that offer opportunities for abuse; in other words, how a balance can be found between these two conflicting considerations.²⁷¹ As a collective term, the special legal order encompasses all those cases which define the functioning of the state in exceptional, extraordinary periods: "(...) the special legal order is a state framework designed to deal with a social or natural phenomenon that cannot be managed under the normal functioning of the state and which threatens the people, the state or the constitutional order."²⁷² Following Lóránt Csink, it should also be emphasised that the special legal order is an *ultima ratio*: its application – as a last resort – is possible only when traditional measures and options for restriction are no longer sufficient.²⁷³

269 Szabolcs TILL: Special legal regime. In: András Jakab – Balázs Fekete (eds.): *Online Encyclopaedia of Legal Science* (Constitutional Law section, section editors: Eszter Bodnár, András Jakab) <http://ijoten.hu/szocikk/kulonleges-jogrend> (2019) [23]–[24].

270 István SABJANICS: Qualified periods in the Fundamental Law and beyond. Péter Kovács (ed.): *Religio et Constitutio*. Pázmány Press. Budapest, 2014. p. 228.

271 András JAKAB – Szabolcs TILL: The special legal order. In: László Trócsányi – Balázs Schanda (eds.): *Introduction to Constitutional Law*. HVG-ORAC. Budapest, 2013. (hereinafter: JAKAB – TILL) p. 466.

Examples from the case law of the Constitutional Court: Order No. 3326/2020 (5 August) AB, Decision No. 15/2020 (8 July) AB, Decision No. 15/2021 (13 May) AB.

272 Lóránt CSINK: When should the legal order be exceptional? *Iustum Aequum Salutare* 2017/4. (hereinafter: CSINK), p. 8.

273 CSINK, op. cit., p. 9.

The special legal order represents a different mode of operation for the state, during which legislative and judicial rules differing from the ‘normal’ must be applied; indeed, there is scope for the restriction or suspension of certain fundamental rights, albeit under specific conditions and to a limited extent. Furthermore, during this period, the role of certain constitutional institutions, particularly the executive branch (the Government) – due to the need for a swift, operational response necessitated by the event giving rise to the special legal order – increases; at the same time, the role of institutions exercising oversight and control (e.g. the Constitutional Court) is necessarily strengthened. In relation to the latter, it is worth noting that, pursuant to Article 54(2) of the Fundamental Law of Hungary (hereinafter: the Fundamental Law), the application of the Fundamental Law cannot be suspended under a special legal order, nor can the operation of the Constitutional Court be restricted.

The basis for the rules of the special legal order is set out in the Fundamental Law (Articles 48–54, including the state of emergency in Article 53 and the common rules applicable to all cases in Article 54). With regard to the special legal order, András Jakab and Szabolcs Till distinguish between a state-centred approach (aimed at saving the state) and a constitution-centred approach (aimed at saving the constitution and the constitutional order) from the perspective that they consider the following to be a preliminary question: whether the special legal order should include the possibility of derogation from the Constitution or not.²⁷⁴ Following this distinction, one can agree with Lóránt Csink’s position that, since the constitution-centred approach regards the special legal order as a constitutional *lex specialis* rather than a situation lying outside the bounds of constitutionality, our domestic legislation is not state-centred but constitution-centred (according to the state-centred theory, the state always has at its disposal a right arising from a state of emergency, which stands above the current legal order and cannot be restricted). According to Lóránt Csink, this also follows from the fact that, in the event of a special legal situation arising, the focus of the examination is on how positive law needs to be shaped and applied in such a case; whereas in a state-centred approach – since the state’s scope for ac-

274 JAKAB – TILL, *op. cit.*, p. 466.

tion in such cases is in any event superior to positive law (and the constitution), as it takes precedence over the law in accordance with the principle of self-defence – there is no point in even raising this question. Nevertheless, he emphasises that constitutional regulation does not preclude the state’s freedom of action or its scope for discretion; however, he stresses that the state’s room for manoeuvre cannot be unlimited or unrestricted, even during a state of emergency.²⁷⁵

Lóránt Csink also raises the question of whether the rules of a special legal order – such as those governing emergency situations – should be institutionalised, on the one hand due to the possibility of restricting or suspending certain fundamental rights, and on the other hand due to the additional powers of certain institutions, resulting from the ‘transformation of the system of separation of powers’. He highlights that András Zs. Varga draws attention to the fact that “the principle that the exercise of power is bound by law has now shifted from being a descriptive text to a prescriptive one”, that is, the constitutional and international obligation of the state to ensure that the rules of law take precedence over the exercise of state power.²⁷⁶ From this, he argues, it follows that in a state governed by the rule of law, the exercise of public power during a state of emergency must also be regulated by legal norms, which must be sufficiently detailed so as not to allow room for arbitrary discretion. Finally, in his analysis, he concludes that the requirement of the rule of law is met if there is a single rule governing the special legal order at the constitutional level, provided that it is general in nature and can thus be interpreted in various ways, since the guarantee lies in the establishment of control mechanisms rather than in detailed regulation.²⁷⁷

During the period in question, the Fundamental Law²⁷⁸ distinguished six types of special status within the special legal regime; these were as follows:

275 CSINK, op. cit., p. 8.

276 ZS. András VARGA: *From ideal to idol? The dogmatics of the rule of law*. Századvég. Budapest, 2015. p. 11.

277 CSINK, op. cit., pp. 12–16.

278 The ninth amendment to Hungary’s Fundamental Law, which came into force on 1 November 2022, reformed the constitutional regulation of the special legal order. Within this framework, drawing on the crisis management experience of previous years and aiming to establish a more modern system, the regime of special legal order cases was restructured from six to three categories – the state of war, a state of emergency and a state of danger.

- state of emergency (in the event of an international conflict),
- state of emergency (in the event of an internal conflict within the country: armed acts aimed at overthrowing the legal order or seizing exclusive power, as well as serious, violent acts committed with weapons or while armed that endanger life and property on a mass scale),
- pre-emptive defence situation (in the event of a threat of external armed attack or in order to fulfil an alliance obligation),
- terrorist threat situation (in the event of a significant and imminent threat of a terrorist attack or in the event of a terrorist attack),
- unexpected attack (in the event of an unexpected incursion by external armed groups into Hungarian territory), and
- emergency situation (in the event of a natural disaster or industrial accident threatening life and property, and in order to avert the consequences thereof).

Of these six cases, a state of emergency was the only one where the aim was not the armed defence of the state, but rather one arising from some natural event; consequently, naturally – compared to the other cases – this was the most likely to be invoked.²⁷⁹

IV.2.2. Declaration of a state of emergency, and the events justifying it

The first cases of the disease known as Covid-19, caused by the SARS-CoV-2 virus, were discovered in December 2019 in the Chinese city of Wuhan, after which it began to spread rapidly worldwide, soon appearing in Europe, including Hungary. The World Health Organisation (hereinafter: WHO) declared the outbreak a pandemic on 11 March 2020.²⁸⁰

In Hungary, on 11 March 2020, the Government issued Government Decree 40/2020. (III. 11.) (hereinafter: Decree I) – in an unprecedented move

279 JAKAB – TILL, op. cit., pp. 470–471.

280 Opening remarks by the Director-General of the WHO at a press conference on Covid-19 – 11 March 2020 (translated by the author).

<https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> Downloaded: 26 April 2021.

since the change of regime – a state of emergency, a special legal regime as regulated in Article 53 of the Fundamental Law, was declared across the entire territory of the country due to a human epidemic causing mass illness, in order to avert the consequences of a human epidemic causing mass illness, as defined in Section 44(ca) of Act CXXVIII of 2011 on disaster management and the amendment of certain related acts, and to protect the health and lives of Hungarian citizens. A distinctive feature of domestic legislation is that the special legal regime – in this case, the state of emergency – may be terminated by the Government, which is authorised to declare it and which, pursuant to Section 3(2) of the Emergency Act, continuously reviews the necessity of maintaining the state of emergency. No specific time limit has been set for the duration of the state of emergency; rather, it is linked to the necessity of maintaining it.

Pursuant to Article 53(1) of the Fundamental Law, in a state of emergency the Government may, in accordance with a specified procedure, derogate from the provisions of laws by means of a decree; such a decree shall, as a general rule – unless the Government extends its validity on the basis of authorisation from the National Assembly – shall remain in force for fifteen days, but shall cease to have effect at the latest upon the cessation of the state of emergency.²⁸¹ The purpose of this regulation, designed for this specific situation and differing from that applicable to the general situation, is to ensure that the State and its institutions have the appropriate means at their disposal to act immediately and without delay if necessary,²⁸² but – once the cause of the emergency and its consequences have ceased – a return to normal operations can be achieved as quickly and smoothly as possible.²⁸³

The National Assembly, in Act XII of 2020 on measures against the coronavirus, which entered into force on 31 March 2020 (hereinafter: Act I on the Coronavirus) Section 2(2) – which, amongst other things, grants authorisation to extend the validity of Government decrees issued during a state of emergency and sets out the framework for such extension – stipulates that

281 Article 53 of the Fundamental Law.

282 Balázs Szabolcs GERENCSÉR: Special Legal Orders. In: Lóránt Csink – Balázs Schanda – András Zs. Varga (eds.): *The Basic Law of Hungary. A First Commentary*. Claurus Press Ltd. Dublin - National Institute of Public Administration, Budapest, 2012, p. 317.

283 JAKAB – TILL, op. cit., p. 466.

the Government may exercise this power, taking into account the principles of necessity and proportionality, with a view to preventing, managing and eradicating the epidemic, and to prevent or avert its harmful effects. It confirmed the validity of government decrees issued in connection with the state of emergency and authorised the Government to extend the validity of government decrees issued under Article 53(1) and (2) of the Fundamental Law during the state of emergency until the state of emergency ceases. It further stipulated that, in order to avert the state of emergency, the Government must regularly provide information on the measures taken until such time as the measures remain in force, either at a sitting of the National Assembly or, in the absence thereof, to the Speaker of the National Assembly and the leaders of the parliamentary groups. The fact that the National Assembly may revoke the authorisation granted to the Government prior to the cessation of the state of emergency constitutes strong parliamentary control.

With regard to ‘governance by decree’, it should be noted that the Government’s authority to issue decrees derives from the Fundamental Law, and that the National Assembly may extend the fifteen-day validity of such decrees – thereby exercising effective control – the law governing this matter provided for a ninety-day extension (I will discuss this in more detail in section IV.4).

It is worth noting that in many European countries – in order to ensure an effective and rapid response to the coronavirus – a system of decree-based governance similar to Hungary’s has been introduced; however, the authority to issue such decrees does not in all cases lie with the Government (for example, in Italy it is the Prime Minister, in the Czech Republic it is the Government and the Minister of Health, in France, the government, the Prime Minister and the Minister of Health).²⁸⁴ The regulations are similar, however, in that the legislature’s supervisory function generally does not extend to specific measures adopted on the basis of such authorisation, but it plays a significant role in the process of declaring and maintaining a state

284 Álmos UNGVÁRI – Dávid HOJNYÁK: The response of certain Member States of the European Union to the coronavirus pandemic, with particular regard to the special legal regulations introduced by the states examined. *Miskolci Jogi Szemle*, 2020/1. (hereinafter: UNGVÁRI – HOJNYÁK) pp. 122–138.

of emergency. In France, for example, under Emergency Law No. 2020-290 on the management of the Covid-19 pandemic, a public health emergency is declared by law, and its extension is also possible only by means of a law passed by parliament. In the Czech Republic, however, the prior consent of the Chamber of Deputies is required in all cases for the Government to extend a state of emergency.²⁸⁵

The pandemic and the resulting changes to the legal order across the world, including in our country, have presented the administration of justice and the functioning of the courts with a new situation. In the following, I will outline how the recent digital developments detailed in Chapter III have laid the foundations for the courts' operation in Hungary during a state of emergency, and what solutions have been implemented to ensure the high-quality and timely handling of court cases.

IV.3. Laying the foundations for the effective operation of the courts during a pandemic – a digital transformation in the courts

IV.3.1. The regulatory framework: the E-Administration Act and the Code of Civil Procedure²⁸⁶

The Electronic Administration Act has, in its preamble, highlighted as objectives – amongst other things – the widespread adoption of electronic administration, the streamlining of procedures, the reduction of administrative burdens, the wider digitisation of private law relationships, as well as the wider digitisation of legal relationships between the state and citizens, and the provision of more modern and efficient public services to the population. Whilst the 1952 Code of Civil Procedure contains detailed rules on electronic communication, the Pp. – in the interests of the stability of procedural law – now sets out only procedural rules in the narrower sense, and does not affect the provisions of the E-Administration Act and its imple-

285 UNGVÁRI – HOJNYÁK, op. cit., p. 127.

286 For details, see section III.4.2.2.3.

menting decrees relating to civil proceedings, nor the technical rules concerning digitisation, although it does refer to them.²⁸⁷ The practical implementation of the legal framework is illustrated by telling statistics: by the end of 2019, 80% of bankruptcy and liquidation proceedings, and 51% of civil proceedings, were already conducted digitally!

From the perspective of this monograph's subject matter, it should be emphasised that the above regulations are based on the principle that, as a general rule, a client is entitled to conduct administrative procedures electronically with the body providing such services – under the Act on Electronic Administration (), this includes courts, and thus the Supreme Court also falls into this category – to conduct administrative acts electronically and make statements electronically when dealing with their cases,²⁸⁸ i.e. it considers electronic communication to be fundamental in the relationship between the party and the court. The system established on this basis years ago, which continued to operate seamlessly even during the state of emergency, was one of the foundations enabling the courts, and thus the Supreme Court, to fulfil their constitutional duty: to deliver well-founded and timely judgments.

IV.3.2. The basis for the operation of the courts during the pandemic: e-files and remote hearings

The Digital Court project laid the foundations for the operation of the courts during the pandemic as if the circumstances emerging in early 2020 could have been foreseen. It set out the simplification of access to the courts as a key strategic objective, within the framework of which the National Office for the Judiciary (OBH) ensures, through IT developments, the technical conditions necessary for the unimpeded functioning of electronic communication between the courts and clients, and the further development of electronic case management in an optimal, client-friendly manner. The

²⁸⁷ Section 610(1) of the Code of Civil Procedure: With the exception set out in paragraph (2), the court shall maintain contact by electronic means with other courts, with bodies providing electronic administration of justice in accordance with the law, and with bodies performing public tasks designated by the Government.

²⁸⁸ Section 8(1) of the E-Administration Act

overall aim of this project was to reduce administrative burdens on two levels: in the internal operations of the courts, and in terms of the time and costs incurred by clients in dealing with administrative procedures.²⁸⁹

IV.3.2.1. Implementation of the e-file

Thanks to earlier developments implemented as far back as 2014,²⁹⁰ several applications designed to facilitate more modern case management for clients were already available on the court's electronic case management portal (for example: a case duration calculator, SMS/email notifications regarding submissions received in a case, and the option to submit administrative complaints online). Of these, access to the details of court documents is the most important from the perspective of our topic, because prior to this, court documents could only be viewed by inspecting the paper-based file in person during the opening hours of the court's administrative offices. The development implemented in the EKOP projects detailed in section III.1.2 of the monograph has made it possible for clients registered on the electronic administration portal to view certain details of their own court cases 24 hours a day, even from their homes or offices, and to receive information about who had submitted which documents in their case; however, the electronic documents themselves could not yet be accessed in this way, but only by appearing in person to examine the paper-based file.

The digitisation of court proceedings documents and the provision of electronic access to court case files – that is, the long-awaited electronic file (e-file for short), particularly by lawyers – was realised within the framework of the Digital Court project detailed in section III.1.3 of this monograph. The fundamental aim was, on the one hand, to enable clients to view the documents relating to their pending court cases from the comfort of their own homes at any time, thereby saving time and money: there is no time spent on travel or administrative tasks, and the costs of photocopying and travel are eliminated.

289 Government Information Technology Development Agency, Digital Court Project https://kifu.gov.hu/kofop_minosegb/further-digitisation-of-judicial-administration-digital-courts

Downloaded: 26 April 2021

290 For further details, see section III.6.

Another aim of the development is to facilitate the work of judges by enabling them to access the documents necessary for their judicial activities and for preparing for hearings and council meetings at any time and from anywhere.

For clients, in cases initiated after 1 January 2020, access to documents generated in their ongoing court cases is provided free of charge via the ÜIR, i.e. without the need for physical presence; this requires only an internet connection and, of course, approval of the connection request following identification.

For judges, an integrated court administration interface is available, where, by connecting securely to the ITR via a token, they can access the electronic legal database, the case law repository, the document template library, the court word processor, the system for viewing electronic case files and initiating KKSZB queries, and other case-specific services (e.g. the asset balance calculator).

In the pandemic situation that arose in 2020, the handling of cases in the courts was made possible – provided other conditions were met – by the fact that judges could access the documents necessary for their judicial activities and deliberations – ‘normal’, i.e. in a non-pandemic situation – to prepare for hearings. It should be emphasised that during this period, court staff assisting the judicial panels also carried out their work remotely from home, so the possibility of electronic access to court documents and the feasibility of electronic case management were of paramount importance to them as well. A few years ago, it would have been unimaginable that paper-based files would not be required for the service of documents, summonses, or the sending of judgments orders to the parties, and that the members of the panel hearing the case could prepare for the scheduled deliberation – or hearing – without the physical presence of a paper-based file.

IV.3.2.2. Further development of remote hearings, ‘VIA VIDEO’

In order to improve the timeliness of court proceedings and increase their transparency, the accelerated development of the remote hearing system for government bodies, courts and prisons began in 2018. The aim was to reduce the number of procedural events requiring physical attendance and to cut travel costs, with a view to reducing costs and in-

creasing security and efficiency. As part of this, 72 courtroom endpoints were initially established in the courts; by comparison, according to the latest available data on this matter, 186 fixed and 30 mobile endpoints were available in 2021.²⁹¹ One of these is located at the Supreme Court, which has so far been used exclusively in criminal cases. It is worth noting that prior to the pandemic, in the first half of 2019, a total of 2,388 remote hearings were held in the country's courts, whilst in the first half of 2020, more than three times that number: a total of 8,246.²⁹² This shows that, under these exceptional circumstances, the judicial system responded to the challenges and utilised the available technology to ensure efficient operation.

Given that, in the context of the pandemic, reducing face-to-face contact is of paramount importance in order to prevent infections, and that these tools are suitable for ensuring the safety of those involved in proceedings, and also to reduce the time and costs associated with appearing in court, consideration should be given in the future to increasing the number of remote hearing terminals available at the Supreme Court. This would allow not only parties to the proceedings held in penal institutions, but also legal representatives who may be located remotely, to make statements via remote hearing in the context of public hearings, and in addition to linking courts, the possibility of connecting courtrooms with international bodies and domestic partner institutions should also be utilised.

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- 291 Remote hearings – VIA VIDEO Project, on the courts' central website: <https://birosag.hu/birosagokrol/digitalis-birosag/tavmeghallgatas-via-video-projekt>
Downloaded: 28 August 2024
and data request on the kimittud.hu interface of the Atlatzso.hu website regarding 'technical equipment used for conducting remote hearings'. https://kimittud.hu/request/a_tavmeghallgatasok_bonyolitasar
(Downloaded: 28 August 2024)
- 292 Courts held more than 8,000 remote hearings in the first half of 2020
<https://birosag.hu/hirek/kategoria/birosagokrol/tobb-mint-8000-tavmeghallgatast-tartottak-birosagok-2020-i-feleleben> Downloaded: 26 April 2021

IV.3.3. The background to simplified telecommunications presence: ‘e-hearings’

The introduction of simplified telecommunications presence, as described in section III.5.2 of this monograph, in criminal proceedings in 2022 and subsequently in civil procedure law in 2024 was not without precedent: it was preceded by the institution of ‘e-hearings’, which was introduced out of necessity during the public health emergency but was successfully applied in these cases. According to Section 21(3) of Government Decree 74/2020 (III. 31.) on certain procedural measures applicable during the state of emergency (hereinafter: Veir. I.), in proceedings falling within the scope of the Civil Procedure Act, the hearing on the merits, and in proceedings falling within the scope of the 1952 Civil Procedure Act, the hearing, shall be held, where possible, via an electronic communications network or other means capable of transmitting images and sound. Under the legislation, if the conditions for this are not met, instead of holding the hearing, the court shall obtain the statements to be made at the hearing in writing or by means of an electronic device enabling identification, and shall record them in the minutes as necessary. I discuss the operation of this legal institution – for reasons of contextual coherence – in section IV.4.1.3.3 of the monograph.

IV.3.4. Improving the publication and anonymisation of court decisions²⁹³

Access to (anonymised) court decisions and the ability to search among them are of fundamental importance for both the courts and the parties: the decisions of the Supreme Court and – in cases specified by law – those of the lower courts are accessible to everyone on equal terms. In the context of the pandemic – when contact between clients and legal representatives became more difficult due to the reduction in face-to-face meetings, and remote working became the norm – it was of paramount importance that

293 For details, see section III.2.

this system continued to operate smoothly, providing an adequate service to those seeking justice.

This development, which aimed to create a modern, easily searchable repository of court decisions based on uniform principles, was also carried out prior to the pandemic, as part of the Digital Court project, which was completed at the end of 2019: the BHGY search engine was further developed to enable intelligent, faster searchability and accessibility, thereby optimising the browsing of anonymised court decisions and the search process; furthermore, the anonymisation process was automated and the anonymisation programme was further developed. With the help of the new IT application developed in this way, court decisions are produced to a nationally uniform standard and structure, with a search-friendly layout; in other words, the application supports anonymisation as the decision is being drafted, meaning that producing the anonymised decision is ‘just’ a click away.²⁹⁴ In addition to all this, the BHGY allows searching within the text of decisions and for specific legal provisions, which facilitates the work of all legal practitioners: judges can access the anonymised decisions necessary for their judicial activities and preparation for hearings regardless of time and place, whilst clients can search for case-specific decisions they wish to cite in connection with their cases using a user-friendly search interface and an IT application supporting advanced search functions.²⁹⁵

Section 163 of the Courts Act on the publication of the Supreme Court’s decisions – following the amendment made by Section 49(1) of Act CLXV of 2020 on the amendment of certain laws relating to the administration of justice – has mandated publication in the BHGY to a wider extent than previously, furthermore, until 31 December 2023, with regard to decisions made after 1 January 2012 – retroactively – the substantive content of the decision had to be indicated alongside the decision published by the Curia, or, in the absence thereof, a brief summary of the content, and the legislation applied

294 Naturally, a review of the anonymised draft decision cannot be omitted prior to its approval and publication, because whilst the method of machine ‘pre-correction’ facilitates the rendering of text passages that may be confusing or cannot be anonymised by machine into unidentifiable form, human intervention is required for this.

295 Client Document Access System, on the courts’ central website
<https://eakta.birosag.hu/anonimizalt-hatarozatok> Downloaded: 14 August 2024.

(), thereby facilitating the usability of the BHGY and ensuring the more efficient operation of the search system.

IV.3.5. Speech recognition and transcription software

Remote working during the pandemic was facilitated by speech recognition and transcription software tested within the Hungarian court system since 2016, which – for users with compatible devices – made it easy to transcribe longer texts whilst working remotely, without the need for human intervention.²⁹⁶

IV.3.6. Procurement of innovative equipment and office software packages to support remote working

Even with the most forward-thinking and modern regulations, it would have been difficult for the courts to operate in an emergency situation without the necessary technical infrastructure. In 2018, the National Judicial Office (OBH) procured a mobile device – a laptop or tablet, as required and chosen by each judge – for every judge, and also provided a mobile internet subscription.²⁹⁷

In Presidential Directive No. 3/2020 on the measures necessary in the epidemiological situation caused by the new coronavirus, the President of the Supreme Court stipulated that the hardware and IT applications enabling work outside the court must be assessed without delay and the requirements met. This has also made it possible for judicial staff, in addition to judges, to work remotely.

In addition, the National Office for the Judiciary has provided the courts with a modern and versatile office software package, the aim of which was to ensure that judges and judicial staff have access to office

²⁹⁶ See section III.8.

²⁹⁷ The future is here in the courts – Digital Court roadshow
<http://projektjeink.birosag.hu/hirek/20181207/jovo-jelen-van-birosagokon-digitalis-birosag-road-show>
Downloaded: 26 April 2021

software that is standardised nationwide and meets all contemporary requirements.²⁹⁸

These tools and software are also accessible to judges at the Supreme Court; software enabling remote desktop access was installed on laptops as a matter of priority, allowing for an immediate and virtually seamless transition to predominantly remote working in the event of a state of emergency being declared. Thanks to the remote desktop connection, case files uploaded to the BIIR programme can be securely accessed from home, away from the court offices; Supreme Court decisions uploaded to the collection of decisions can be searched; and the legal database service has been available online for several years now. Thanks to all these developments, in civil cases, council meetings can be held without any difficulty via ‘Skype for Business’ (hereinafter: Skype) without the need for face-to-face meetings, and decisions can be drafted to a high standard, meaning that cases could be concluded in a timely manner despite the emergency situation.²⁹⁹

IV.3.7. A further consideration – lawyers’ preparedness for digital working during the pandemic

It must be emphasised that the remote court proceedings conducted via digital tools, which were necessary during the state of emergency declared due to the pandemic, would not have been feasible without the preparedness of legal representatives;³⁰⁰ therefore, to get the full picture, we must also take a look at the situation of the legal profession.

298 New office software package in the courts

<https://birosag.hu/hirek/kategoria/about-courts/munkavallalok-kozeppontban-uj-iro-dai-szoftvercsomag-birosagokon> Downloaded: 26 April 2021

299 Remote desktop connections have continued to support day-to-day operations, but from 2025 the licence holder will provide the ‘Teams’ application instead of ‘Skype for Business’.

300 For international and European standards regarding the guarantee of access to justice in crisis situations and their practical application, see: Ágnes VÁRADI: The application of the concept of access to justice in crisis situations. *Miskolci Jogi Szemle*, 2023/1. (hereinafter: VÁRADI), pp. 5–18; for further discussion of issues relating to the IT preparedness of litigants, see: Anna ZÁMPORI: The effects of the development of digitalisation on the taking of evidence in civil proceedings. *Multidisciplinary Sciences*, 2021/5, p. 349.

Within the Bar Association, an online questionnaire survey entitled ‘Legal IT during the pandemic’ was conducted between 2 July 2020 and 30 September 2020, which was completed by 155 respondents.³⁰¹ As is evident from the responses relevant to civil litigation, the digitalisation processes affecting lawyers were already well advanced when the state of emergency was declared: tools enabling electronic communication had been in use for at least two years, documents were sent and received electronically, they identified themselves electronically (Central Identification Agent – KAŰ identification), standard forms used in the courts were utilised via the applications designed to manage and complete them, they possessed a qualified electronic signature indicating their status as lawyers, and they worked from an electronic legal database.

At the start of 2020, the launch of the e-file system—described in section III.6.2 of the monograph and long awaited by lawyers—brought about a positive change in the accessibility of court documents, as the aim of its ŰIR module is to ensure that lawyers can access remotely not only registry data (i.e. the main details of the court case, such as the date the statement of claim was received by the court, the scheduled hearing or the date of the judgment), but also to view the entire file, essentially the documents themselves (just as when accessing a paper-based file). However, as access is available on a ‘backward-compatible’ basis – that is, for cases initiated after 1 January 2020 – this has not yet represented a real step forward for them, for example in appeal cases. But as a lawyer specialising in this field put it: “the technology is excellent, and it has everything it takes to enable lawyers to provide a higher standard of service to their clients.”³⁰²

A survey conducted among lawyers highlighted that, in their view, the area most in need of development is the possibility of remote hearings and remote trials. As the VIA VIDEO system facilitates connections between individual state endpoints (e.g. courts and prisons), it is not suitable for establishing contact with lawyers or legal representatives. A solution could have been ‘e-hearings’, namely the use of the enterprise version of ‘Skype’

301 Péter HOMOKI: IT for lawyers during the pandemic. In *Medias Res* 2020/2. (hereinafter: HOMOKI) pp. 227 and 236.

302 HOMOKI, op. cit., p. 247.

– as mentioned in point 3.6 – procured by the courts: courts were able to join the relevant procedural proceedings via an invitation sent to the email address provided by the legal representative, and the procedural requirements for this were also established during the emergency. Due to the limited communication options, the experience was that in multi-party serious evidentiary proceedings, the parties were reluctant to use this solution, preferring instead to hold hearings in person (although difficulties may arise here due to mask-wearing rules, for example when considering the confrontation of parties and witnesses wearing masks). The possibility of moving forward lay in the implementation of simplified telecommunications attendance, as outlined in Section II.5.2 and – specifically with regard to its application during the state of emergency – in Section IV.3.3.

IV.4. Emergency legislation applicable to the courts and its consequences

Following the declaration of a state of emergency in Hungary on 11 March 2020, numerous government decrees aimed at curbing the pandemic and protecting citizens came into force. These measures, which mostly involved restrictions, naturally also had an impact on judicial proceedings, both contentious and non-contentious; of these, I shall outline those that also affected the operation of the Supreme Court.³⁰³ It is particularly important to outline the impact of the regulations on the operation of the courts because this allows us to track, step by step, the effect of legislation adapted to the specific level of the emergency on the functioning of the courts.³⁰⁴

303 For the reasoning behind the Supreme Court's closer examination, see section I.2.

304 I consider it important to present this in such detail so that the legislative measures that became necessary and the related experiences are available for reference in the event of similar situations arising in the future.

IV.4.1. Legislation and the functioning of the courts during the first phase of the pandemic response (11 March 2020 – 17 June 2020)

The Government declared a state of emergency across the whole of Hungary in Section 1(1) of the Emergency Decree, which came into force at 3 p.m. on 11 March 2020. Section 1(3)(1) of the Emergency Decree provides that separate government decrees shall govern extraordinary measures relating to the state of emergency, whilst paragraph (2) stipulates that the Government shall continuously review the necessity of maintaining the state of emergency.

Upon the recommendation of the President of the Supreme Court, the President of the National Judicial Office and the Prosecutor General, the Government, in order to prevent a human epidemic causing mass illness that threatens life and property and to avert its consequences, and to safeguard the health and lives of Hungarian citizens, ordered an extraordinary suspension of judicial proceedings in Section 1 of Government Decree No. 45/2020 (III. 14.) on measures to be taken during the state of emergency. The decree, which came into force on 15 March 2020, remained in force for fifteen days, until 29 March 2020, as the Government did not extend its validity.

During this period, the courts, including the Curia, did not hold hearings; hearings scheduled for dates after 15 March 2020 were cancelled, but proceedings continued in cases that could be dealt with without a hearing.

The Curia's administrative office also suspended in-person client reception; information could be requested via telecommunication or electronic means, and clients could submit paper-based submissions either by post or by placing them in the collection box located at the entrance.

It should be noted that, in connection with the imposition of the extraordinary suspension of proceedings, a number of issues of interpretation arose regarding the running of time limits and the performance of specific procedural acts in civil cases, which led to uncertainty in the application of the law. Recognising that there is a paramount interest in the smooth functioning of the administration of justice during a state of emergency, the Government, with a view to the 'restart' of the courts, enacted the Decree, which came into force at 3 p.m. on 31 March 2020, to ensure the safe operation of

the courts and to reduce direct personal contact, Decree No. I of 31 March 2020, which came into force at 3 p.m. on 31 March 2020.

The clear message of Decree No. I. was that, in the context of the coronavirus pandemic, courts – including the Supreme Court – are required to organise their operations with due flexibility, whilst taking into account the rights and interests of clients, and, where possible, by avoiding physical attendance and utilising modern technical tools.

Veir. I. contained special rules regarding matters falling within the scope of the Pp. and the 1952 Pp. Consequently, if Veir. I. contained a provision on a particular matter, that provision was to be applied in the first instance, and the provisions of the Pp. and the 1952 Pp. were to be disregarded in that respect.

The most important special rule of civil proceedings from the Supreme Court's perspective was that, in order to prevent the spread of the epidemic and reduce face-to-face contact, the parties could not request a hearing in the review proceedings.³⁰⁵ The explanation for this is that – since the Supreme Court decides in the review proceedings whether the final decision has infringed the legislation(s) cited by the party submitting the application for review³⁰⁶ – the personal presence of the parties is largely dispensable at this stage of the proceedings, which, in the context of the pandemic, helps to reduce the number of face-to-face contacts.

A question of interpretation has arisen in relation to this provision as to whether, in addition to the clear-cut cases where a party would be entitled to submit a request for a hearing under the scope of Veir. I., is it also applicable in cases where a party had previously requested a hearing before Veir. I. came into force, but the Supreme Court had not yet taken action on the matter?

The Civil Division of the Supreme Court, in order to ensure consistency between the specific provisions of Veir. I. and the general rules of civil procedure, and thereby to facilitate the smooth adjudication of cases, set out in point 1 of Opinion 1/2020. (IV. 30.) PK (hereinafter: Opinion 1/2020. PK)

³⁰⁵ Section 29(1)

³⁰⁶ 1952 Pp. Section 275, Pp. Section 424.

that, in the application of Veir. I., the court of appeal – and thus the Supreme Court – must, as a general rule, refrain from scheduling hearings *ex officio* during the state of emergency. It answered the question raised by stating that this also applies to cases in which the parties requested a hearing before Veir. I. came into force, but no hearing had yet been scheduled.³⁰⁷

In order to fully uphold the parties' right to a fair hearing, a hearing must be held even at this stage of the emergency, in response to their joint written application received within the time limit (within fifteen days of the notification of the decision to be made without a hearing): however, not in person, but via an electronic communications network or other means capable of transmitting images and sound (hereinafter: e-hearing). In the reasoning attached to point 5 of Opinion 1/2020. PK, the Supreme Court noted that, in order to expedite the preparation of the hearing to be scheduled in this manner and to avoid 'multiple rounds of correspondence', it appears appropriate to require the parties to state in their joint application for the hearing to be held: what IT equipment is at their disposal; legal representatives may be required to provide the data necessary for the e-hearing and to make the relevant declarations.

An important supplementary rule is that, if the conditions for an e-hearing are not met, the court shall, in order to ensure the progress of the proceedings, obtain the statements to be made at the hearing in writing or via an electronic means suitable for identification. However, if a procedural step requiring further personal participation, but which cannot be carried out in the manner described above, is also necessary, then the period until the obstacle is removed or the emergency situation ceases shall not be counted towards the time limits. It is clear that, at this stage of the emergency, it was not possible to hold a hearing in person; instead, the principle of oral proceedings could only be ensured via electronic means.

It is worth noting that this is regulated by Sections 394/N-394/P and 622–627 of the 1952 Code of Civil Procedure, but the concept of a 'device capable of transmitting electronic images and sound' as defined in Section 21(3) of the Veir. I. 21(3) was not previously included in procedural or other legis-

307 Section 274(1) of the 1952 Civil Procedure Act or Section 376(1)(a) and Section 405(1) of the Civil Procedure Act

lation, nor did the legislation address the conditions for hearings held via such means. In order to avoid problems in the application of the law – based on the proposal of the Civil, Economic and Labour Emergency Cabinet established by Government Decree 45.SZ/2020. (31 March) OBHE – the Supreme Court, in its Opinion 2/2020. (IV. 30.) PK (hereinafter: Opinion 2/2020. PK) – the Curia has taken a position on the conditions for hearings held via means suitable for the transmission of electronic images and sound during the state of emergency under Act CXXXV of 2020 on the prevention and management of public health emergencies.

In the interests of equality of arms, an ‘online hearing’ could only be held if the necessary technical facilities were available to every person summoned to the hearing; the court was required to verify this *ex officio*. In addition, in order for the hearing to take place, it was necessary for participants to provide their email addresses to the court, and they were required to have an internet connection as well as equipment capable of simultaneously transmitting video and audio. For this purpose, the courts had at their disposal ‘Skype for Business’, which is suitable for identity verification and was already mentioned in section IV.3.6, so the relevant technical condition was met (i.e. there was no choice between different IT platforms), and the parties could also join via this application, having received notification of the Skype meeting (i.e. the hearing) via a link. The National Office for the Judiciary (OBH) prepared an information sheet entitled ‘Joining a Skype meeting for external clients’, which was sent to those summoned to the hearing.

At this stage of the emergency, the Supreme Court adjudicated appeals lodged in civil cases outside of court hearings; no ‘e-hearings’ were held.

Changes in the epidemiological situation justified the “relaxation” of the strict rules: Government Decree 74/2020. (III. 31.) on certain procedural measures applicable during the state of emergency, and Government Decree 229/2020. (IV. 5.) on the amendment of certain penal enforcement rules in connection with the declaration of a state of emergency (hereinafter: Amendment I) amended the rules in force in the courts during the state of emergency with effect from 1 June 2020. The amendment was intended for a transitional period, as a bill relating to the termination of the state of emer-

gency had been submitted to the National Assembly, which also contained transitional provisions.³⁰⁸

The most significant change was that the courts – including the Supreme Court – were able to hold hearings again from 1 June 2020, but – where justified by public health measures – these could continue to be conducted via electronic communication networks (remote hearings) or ‘e-hearings’. The regulations also allowed the court to restrict public access to hearings for pandemic-related reasons.³⁰⁹

The presidents of the courts – including the President of the Supreme Court – set out in detail the rules for entering and remaining in court buildings, taking epidemiological considerations into account; including provisions such as the requirement to wear protective equipment (a face covering – a mask) and to use the hand sanitiser provided by the court. The President of the Supreme Court further stipulated in a presidential directive that clients may only enter the Supreme Court building in justified cases, for the purpose of participating in procedural acts or conducting administrative business at the registry office, and may remain in the building exclusively for the duration of the procedural act or the administrative business. It was only possible to attend a public procedural act as a member of the public or to visit the registry office to inspect documents following prior registration.³¹⁰

Section 5 of the Amendment contained a provision of significance for the handling of review cases, which was in force from 1 June 2020 to 17 June 2020 (until the end of the state of emergency): the court conducting the appeal and review proceedings continued to proceed without a hearing if it had notified the parties of the decision without a hearing during the period between the entry into force of this decree (i.e. Decree I) and the entry into force of Amendment I. Furthermore, if, during the period between the entry into force of Veir. I. and the entry into force of Módr. I., following notification

308 On 26 May 2020, the Government submitted draft Act No. T/10747 on the termination of the state of emergency and draft Act No. T/10748 on transitional rules relating to the termination of the state of emergency and on health preparedness.

309 Section 23(2) of Act I of 2020 (in force: 1 June 2020 – 17 June 2020)

310 Presidential Directive No. 3/2020 of the President of the Curia on measures necessary in the epidemiological situation caused by the new coronavirus.

of the decision to be made without a hearing, the parties requested in a joint application that a hearing be held, the court was required to schedule one.

In a specific case, the petitioner lodged a constitutional complaint in which – in addition to the final judgment handed down in the case in question – he requested that the provision of Section 29(1) of Veir. I. in force in force from 1 June 2020 to 17 June 2020 be declared unconstitutional and annulled. He stated that he had expressly requested the court of second instance to hold a hearing in his case, but the court, citing Section 29(1) of the Veir. I. , delivered its decision on 28 August 2020 without a hearing. He emphasised that on the day of the decision, there was neither a state of emergency nor a special legal regime in Hungary, and courts were holding hearings in other cases; therefore, on the one hand, his right to a public hearing was infringed, and on the other hand – since this discrimination affected only those in whose cases the contested provision was in force and measures were taken during the state of emergency – the constitutional rule prohibiting discrimination based on other circumstances was also infringed. He complained that although the court of second instance had ruled partly in his favour, the ‘closed hearing’ had deprived him of the opportunity to present oral arguments, that is, to point out the errors in the first-instance decision; consequently, many questions remained unanswered and he was only able to ‘correct the first-instance judgment’ in part.

In Order No. 3178/2021 (30 April) AB, the Constitutional Court dismissed the constitutional complaint on the following three grounds. Firstly, the petitioner’s assertion that, had a hearing been held, a second-instance decision differing from the first-instance decision would have been reached regarding the main subject matter of the case did not establish a likelihood of a violation of fundamental rights. Secondly (within the scope of temporal application), the application of the amendment to the rules of procedure to ongoing proceedings cannot be regarded as exceptional. Thirdly, in the Constitutional Court’s view, the petitioner did not identify any new circumstance or fact, not apparent from the documents, which would have made it probable that the procedure conducted without a hearing – which was mandatory under the contested provision – infringed the petitioner’s right guaranteed by the Fundamental Law.

In summary, it can be concluded that the provision of Veir. I. has passed the constitutionality test; that is, the Constitutional Court deemed the procedure without a hearing in appeal cases to be appropriate during the period of the special legal order, taking into account constitutional requirements.

In view of the favourable development of the epidemiological situation, in Act LVII of 2020 on the termination of the state of emergency, promulgated on 17 June 2020, the National Assembly called upon the Government to terminate the state of emergency under Section I of the Vesz. r. I. in accordance with Article 54(3) of the Fundamental Law, and that the Corona Act I. should cease to have effect. The Government terminated the state of emergency by Government Decree 282/2020 on the termination of the state of emergency, promulgated on 11 March 2020 (VI. 17.), which provided that Decree I on the State of Emergency ceased to have effect, and thus the state of emergency ceased on 18 June 2020.

IV.4.2. Regulation and operation during the transitional period (18 June 2020 – 3 November 2020)

The termination of the state of emergency did not mean that the legal system and everyday life had returned entirely to the state they were in prior to 11 March 2020. The risk of the epidemic persisted, so it might be necessary at any time to reapply parts of the government decree issued during the state of emergency; and so these were summarised in Act LVIII of 2020 on transitional rules relating to the termination of the state of emergency and on epidemic preparedness (hereinafter: the Termination Act), which was adopted by the National Assembly.

The Exit Act also set out the public law framework for the next phase of epidemic control: by supplementing the existing provisions of the Health Act relating to health crises, the Government was granted the power to issue decrees in certain areas – without the existence of a special legal order – which extended exclusively to areas related to epidemic control (such as travel restrictions, social distancing rules, etc.), in other areas (such as the courts), however, it could no longer issue decrees overriding the law.

The provisions of Section I of the Amendment Act had already ensured the resumption of court proceedings during the final phase of the state of emergency; the Exit Act essentially reiterates these provisions, meaning that, as a general rule, courts held hearings with parties present in person, but – depending on the development of the epidemiological situation, they were also given the option of holding hearings via remote hearing or ‘e-hearing’. Furthermore, the possibility of restricting public access remained unchanged in cases where this ensured compliance with epidemiological measures within the courtroom. The Transitional Act also provided, amongst other things, for the possibility in review cases that – in specific cases – if a party requested a hearing within the fifteen-day time limit for forfeiture of rights, calculated from the day following the cessation of the state of emergency, the Supreme Court would adjudicate the review application at a hearing; if no such request was made, it would continue to adjudicate the application outside of a hearing.³¹¹

IV.4.3. Regulation and operation during the second phase of the pandemic response (4 November 2020 – 7 February 2021)

By the end of October 2020, the pandemic situation had deteriorated across Europe, and the number of cases was rising steadily in Hungary as well. To ensure a successful response to the pandemic, on 4 November 2020 the Government reinstated the special legal regime for 90 days: Government Decree 478/2020. (XI. 3.) (State of Emergency II), in which the Government once again declared a state of emergency across the whole of Hungary.

Subsequently, the National Assembly, in Act CIX of 2020 on measures to combat the second wave of the coronavirus pandemic (hereinafter: the Corona Act II.), which came into force on 11 November 2020, and it laid down specific rules relating to the state of emergency, authorised the Government pursuant to Article 53(3) of the Fundamental Law, and regulated the National Assembly’s role in decision-making in accordance with the provisions of the Corona Act I.

The rules governing the courts – in relation to the state of emergency – remained unchanged during this phase.

311 Sections 136–144 of the Transitional Act.

IV.4.4. Regulation and operation during the third phase of pandemic response (8 February 2021 – 31 May 2022)

The third wave of the coronavirus pandemic reached Hungary in February 2021, with more cases recorded than ever before. In order to ensure the swift adoption of the necessary effective measures, Government Decree 27/2021 (I. 29.) on the declaration of a state of emergency and the entry into force of emergency measures (hereinafter: Decree III) came into force on 8 February 2021.

Subsequently, the National Assembly, in Act I of 2021 on measures to combat the coronavirus pandemic, which came into force at 23:00 on 22 February 2021 and remains in force for 90 days (hereinafter: Corona Act III.), which was enacted at 23:00 on 22 February 2021 and is valid for 90 days, establishing specific rules relating to the state of emergency, authorising the Government pursuant to Article 53(3) of the Fundamental Law, and containing rules regarding the role of the National Assembly in decision-making.³¹²

The rules governing the judicial activities of the courts – in the context of the state of emergency – remained unchanged during this phase.

Due to the intensifying third wave of the pandemic, further measures became necessary; in view of this, Government Decree 112/2021 (III. 6.) on the reintroduction of certain procedural measures applicable during a state of emergency – which came into force on 8 March 2021 and remains in force until 22 May 2021 – (hereinafter: Veir. II.), which ordered the application of different rules for the duration of the period of heightened protection, including in relation to civil court proceedings, and whose provisions were also to be applied to proceedings already in progress on the date of its entry into force.

In view of the worsening epidemiological situation – and in order to reduce the number of face-to-face meetings – it restricted the possibility of conducting procedural acts requiring physical presence and prioritised written proceedings. According to the rule concerning the Supreme Court,

312 This Act granted the Government authorisation for 90 days, but this period was extended through several amendments – Act XL of 2021, Act CII of 2021, Act CXXX of 2021.

in review proceedings the court, without exception, in all cases, and if a hearing should have been held regarding the application for review, or if any party had requested it, or if a hearing had already been scheduled, the Supreme Court notified the parties out of turn of the fact that the case would be decided without a hearing, and provided an opportunity for the parties to submit their statements in writing. These rules applied only to hearings scheduled during the period of stricter defence; they did not, therefore, apply to hearings scheduled for the subsequent period. Thus, during the period of enhanced defence measures, the general rule in civil proceedings before the Supreme Court was that applications for review were to be decided without a hearing, with no exceptions.

The derogating provisions of Veir. II were originally intended to apply until 5 April 2021, but due to the peak of the third wave, it became necessary to extend the period of enhanced defence measures until 19 April 2021; consequently, no hearings could be held at the Supreme Court during this period. At the same time, whilst the stricter protective measures were still in force, the Government decreed that if, following the lifting of the stricter protective measures, a court – including the Supreme Court – were to hold a hearing, it could do so in person, provided the relevant conditions were met and in compliance with public health measures. If a hearing cannot be held in person, it must, where possible, be conducted via remote hearing or ‘e-hearing’. Where the conditions for these are not met, instead of holding the hearing, the court shall obtain the statements to be taken at the hearing in writing or by means of an electronic device enabling identification.³¹³

As the enhanced defence measures introduced on 8 March 2021 were not extended, they ceased to apply on 19 April 2021; consequently, the alternative procedural rules ordered by Veir II, which had been in force during the period of enhanced defence measures, were no longer applicable from 20 April 2021. Government Decree 182/2021 (IV. 16.) (hereinafter Amendment

313 Government Decree No. 160/2021 (1 April) on the reintroduction of certain procedural measures applicable during a state of emergency, amending Government Decree No. 112/2021 (III. 6.) on the reintroduction of certain procedural measures applicable during a state of emergency, and Government Decree 154/2021. (III. 27.) on the reintroduction of certain procedural measures applicable during a state of emergency in proceedings before the Financial Arbitration Board, Sections 1 and 2(a).

II) provided that, following the cessation of the state of emergency, the provisions of the 1952 Civil Procedure Act, the Civil Procedure Act and the Termination Act were to be applied with the exceptions specified in Amendment II. A provision of particular significance for the Supreme Court was that, in review proceedings, the Supreme Court – if it had notified the parties of a decision without a hearing during the period of the stricter defence – would continue to proceed without a hearing; however, if either party submitted a request for a hearing within 8 days of the date on which the period of enhanced defence ended, a hearing had to be held. If the court had not yet notified the parties of the out-of-court adjudication between 8 March 2021 and 19 April 2021, then the hearing or the out-of-court adjudication took place in accordance with the general rules of civil procedure.

Pursuant to the final amendment to Act III of the Corona Act, as set out in Act CXXX of 2021, the state of emergency due to the pandemic was ultimately extended until 31 May 2022. Section III of the Emergency Decree was repealed – with effect from 1 June 2022 – by Section 3 of Government Decree No. 181/2022 (24 May).

Prior to the lifting of the state of emergency due to the coronavirus pandemic, with effect from 25 May 2022, the Government, in view of the armed conflict and humanitarian disaster in Ukraine, and in order to avert their consequences in Hungary, issued Government Decree 180/2022. (V. 24.) on the declaration of a state of emergency and certain emergency regulations, in view of the armed conflict and humanitarian disaster in Ukraine, the Government has declared a state of emergency across the whole of Hungary. Consequently, between 25 May 2022 and 31 May 2022, two decrees establishing a state of emergency were in force simultaneously.

IV.4.5. Regulation and operation during the fourth phase of pandemic response (1 June 2022 to 1 November 2022)

Pursuant to Section 1 of Government Decree No. 181/2022 (24 May) on the termination of the state of emergency, which entered into force on 1 June 2022, pursuant to Article 53(1) of the Fundamental Law, in accordance with Government Decree 27/2021 (I. 29.) on the declaration of a state of emergen-

cy and the entry into force of emergency measures, the state of emergency, which had been declared across the whole territory of Hungary to avert the consequences of the SARS-CoV-2 coronavirus pandemic causing mass illness and threatening life and property, and to protect the health and lives of Hungarian citizens, has been lifted. Regulatory issues relating to the termination of the state of emergency are set out in Act V of 2022, which entered into force on 1 June 2022.

In Act VI of 2022 on mitigating the consequences in Hungary of an armed conflict or humanitarian disaster in a neighbouring country, the National Assembly authorised the Government to extend the validity of the decrees issued in response to the state of emergency until this Act ceases to have effect. On this basis, the Government, by Government Decree No. 203/2022 (VI. 8.), which was promulgated on 25 May 2022, extended the validity of the legislation validity of the legislation listed therein until Act VI of 2022 ceases to have effect, i.e. until 1 November 2022.

In view of the armed conflict and humanitarian disaster in Ukraine, and in order to avert their consequences in Hungary, the Government issued Government Decree No. 423/2022 of 28 October 2022 on the termination of the state of emergency and certain emergency regulations, as promulgated by Government Decree No. 180/2022 of 24 May 2022. (V. 24.) on the declaration of a state of emergency and certain rules applicable during a state of emergency, Government Decree 423/2022. (X. 28.) on the termination of the state of emergency, the fourth state of emergency declared in view of the armed conflict in Ukraine was terminated with effect from 1 November 2022. Consequently, Act VI of 2022, as well as Government Decree No. 180/2022 (24 May) and Government Decree No. 203/2022 (8 June), ceased to have effect.

It is important to note that, at this stage, no statutory restrictions regarding the operation of the courts were in force, and they were functioning without disruption.

My aim in providing the above chronological overview was – in the absence of any analysis of this subject in such detail – to provide an insight into the tasks arising for the courts, and in particular for the Curia, in response to the changing situation underpinning the declaration of the special legal

order. On this basis, it is clear that – alongside the difficulties faced by the legislature – the rapid succession of legislative changes, the need to review their scope of application and to apply them accurately also presents a serious challenge to those applying the law, since the most important consideration for the parties is to obtain a judicial decision that is delivered in accordance with the law, in a timely manner and in due course.

IV.5. The impact of the state of emergency on the Supreme Court's caseload

Following the first declaration of the state of emergency in March 2020, when an extraordinary judicial recess was ordered, and subsequently upon the promulgation of Veir. 1, which prioritised the adjudication of cases without a hearing, no one could have predicted what impact the special legal rules would have on the functioning of the courts, from the perspective of civil litigation: to what extent the courts – in this context, the Supreme Court – are able, in this special and unprecedented situation, to fulfil their duty of resolving disputes between the parties in accordance with the principles of fair trial and in full compliance with the law.

To this end, it is worth examining, first and foremost, the case load data of the Supreme Court, which adjudicates on appeals lodged in civil proceedings, for the year 2020, which was affected by the pandemic, and the year immediately preceding it (Figure 4).

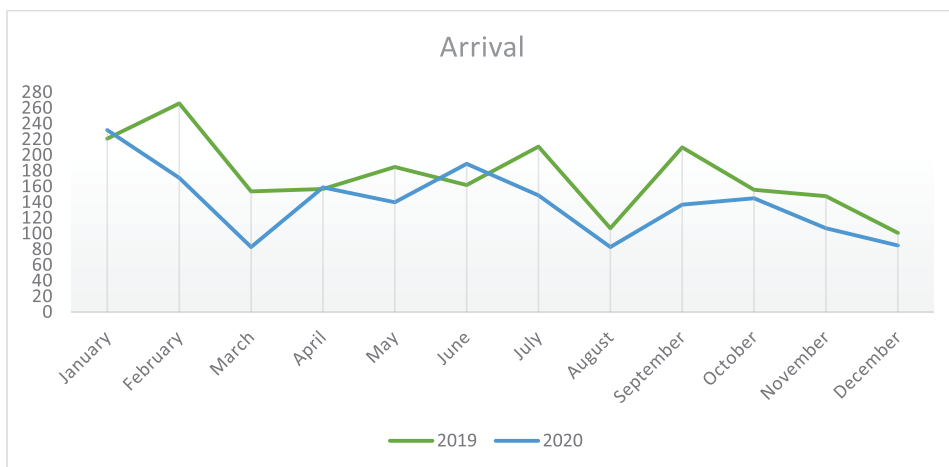


Figure 4: Number of civil litigation cases received by the Supreme Court in 2019–2020 (own compilation)

(Source: www.birosag.hu and the Supreme Court's case load data)

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

The figure above clearly shows that the number of civil cases (meaning civil and commercial) remained below the number of cases received in 2019 (at around 81% of that figure) in 2020 – with the exception of one or two months – a clear explanation for which is the slowdown in the operation of lower courts due to the pandemic. As the Supreme Court acts as a court of review, it reviews the final decisions of lower courts – from the perspective of legality – and so the input data depend solely on the number of cases referred by the lower courts.

In contrast, the number of cases concluded was not affected by the pandemic: of the cases concluded in 2019 (total: 2,302) were concluded by the Supreme Court in 2020, a year affected by the pandemic, which reflects both the soundness of the legislative measures taken to maintain the courts' operational capacity and the conscientious attitude of the Supreme Court's staff, and their commitment to concluding the cases before them even amidst difficulties (Figure 5).

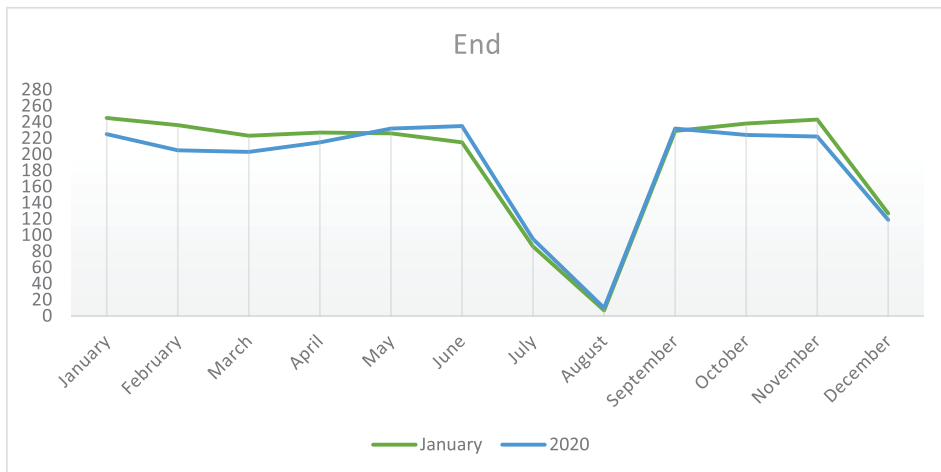


Figure 5: Number of civil litigation cases concluded at the Supreme Court in 2019–2020 (own compilation)
(Source: www.birosag.hu and the Supreme Court's case volume data)

Looking at the data from early 2021, a period heavily affected by the pandemic (Figures 6 and 7), it is evident that the number of cases received continued to rise; clearly, the difficulties in case management under the stricter restrictions had not yet had an impact on this. However, looking at the number of cases concluded, it is evident that even during the period of stricter protective measures, the adjudication of appeal cases proceeded efficiently, at a rate significantly exceeding (by approximately 40%) the number of cases received.

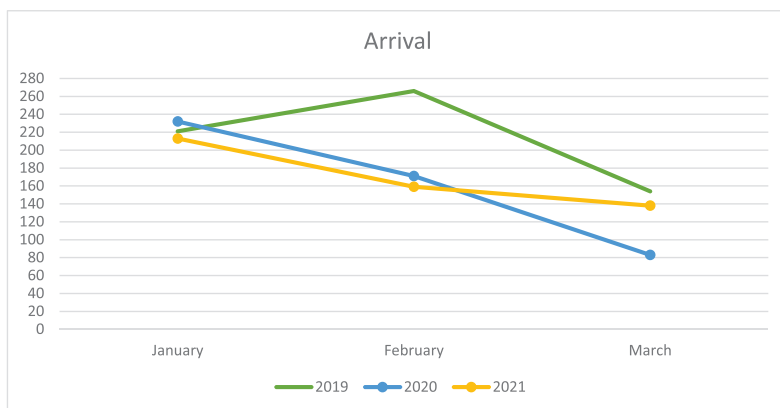


Figure 6: Number of civil litigation cases received by the Supreme Court in 2019–2021 (own compilation)

Source: www.birosag.hu and the Supreme Court's case volume data

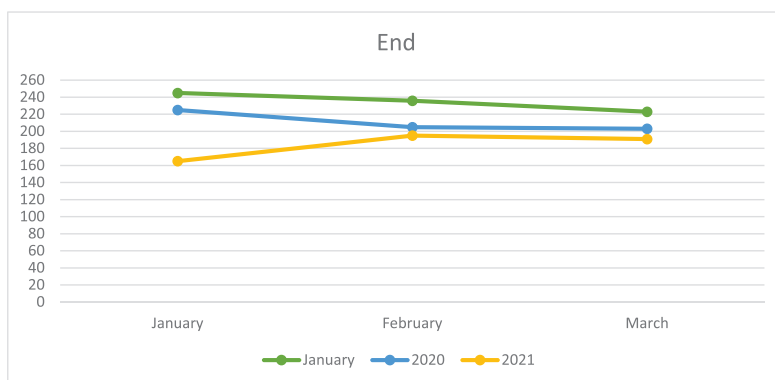


Figure 7: Number of civil cases concluded by the Supreme Court in 2019–2021 (compiled by the author)

Source: www.birosag.hu and the Supreme Court's case statistics

In my view, it would be premature and incorrect to conclude from this that the Supreme Court is able to review civil cases more effectively outside of court hearings. In judicial work, particularly in review proceedings determining the legality of final judgments, a statistical approach cannot be prioritised. The adjudication of cases on the basis of oral, direct hearings is a historic constitutional achievement of our forebears,³¹⁴ which we cannot sacrifice on the altar of efficiency; thus, the rule must continue to be upheld that, should either party so request, the Supreme Court must decide on the review application at a hearing. Nor does the fact that ‘during the state of emergency, the majority of the parties did not object to a judgment being delivered in their case without a hearing’ provide sufficient grounds for this.³¹⁵

It is precisely for this reason that Amendment II, referred to in point IV.4.4.3, for reasons of due process, provided that – even if the parties were notified of the decision made outside a hearing during the period of restricted defence – if any party submitted a request for a hearing within 8 days of the day following the cessation of the restricted defence, a hearing had to be held.

IV.6. Summary – lessons from the emergency situation from the perspective of digitalisation

The emergency situation has shown that changes in the world and in circumstances force us all to adapt flexibly to new situations. This is true of the legislator; in this regard, I agree with the views expressed by Sándor Udvary³¹⁶, who argues that the state of emergency has in several instances acted as a catalyst for amendments to general procedural law and, in some

314 Bálint ÖKRÖSS: *Reform of Legislation: A Proposal for the Code of Civil Procedure Based on Oral Proceedings, Directness and Publicity*. Franklin Society. Budapest, 1880.; Géza MAGYARY: The Principles of Oral Proceedings and Directness in the New Code of Civil Procedure. *Journal of Legal Science*, 1912/40, pp. 348–349.

315 Darák: From July, complaints regarding legal uniformity may be lodged with the Supreme Court (MTI news). *Jogászvilág*, 1 July 2020.
<https://jogaszvilag.hu/napi/darak-juliustol-jogegysegi-panaszt-lehet-benyujtani-a-kuriahoz/> Downloaded: 1 May 2021.

316 UDVARY 2023, op. cit., p. 224.

cases, non-contentious procedural rules. This also applies to the courts, whose operations must not cease even under extraordinary circumstances; disputes between the parties must be resolved, and non-contentious proceedings must continue, not least to ensure the functioning of the economy. This requirement also imposes on the Supreme Court the duty to reach a decision on the legality of final judgments within a reasonable timeframe, whilst maintaining high standards of adjudication and preventing the spread of infection.

To this end – as we have seen – all the technical conditions were available to the judges: the developments and equipment purchases made as part of the Digital Court Project enabled adjudication to take place regardless of time and place, which helped ensure the smooth operation of the courts in exceptional legal situations.

Given that, in the context of the pandemic, reducing the number of face-to-face meetings is of paramount importance in order to prevent infections, it is worth considering, for the future, increasing the number of available remote hearing terminals, as this would allow not only parties to proceedings held in penal institutions but also legal representatives located elsewhere to make statements via remote hearing within the framework of public hearings. To this end, ‘authorised locations’ outside the court (such as bar associations or government service centres) should be equipped with remote hearing terminals to ensure the necessary capacity. This would ensure attendance at hearings in similar future situations without travel costs and whilst avoiding the risk of infection, thereby also complying with the principles of oral proceedings and immediacy.

As the establishment and operation of a remote hearing system is costly, a need arose for parties to civil proceedings to participate in hearings via ‘other devices capable of transmitting images and sound electronically’, as permitted by Section 1 of the Act, which was previously only available during the emergency and the associated transitional period. Drawing on the experience of the coronavirus pandemic, the legislature incorporated the legal concept of simplified telecommunications attendance into the Code of Civil Procedure by means of the aforementioned Act XVII of 2024, which introduced into the Code of Civil Procedure the legal institution of simplified

telecommunications attendance, whereby the hearing of the person concerned does not take place in the court's official premises, but the person may use their own – or, more precisely, the electronic devices and software available to them – to communicate with the court. In this case, therefore, the lessons learnt from the emergency situation can clearly be utilised even outside the framework of the exceptional period.³¹⁷

In conclusion, it can be stated that the period of special legal measures provided a good example in the courts of how the combination of appropriate legislative measures, the application of the law prioritising lawful operation, and the law-abiding conduct of clients is capable of ensuring the functioning of the administration of justice even under 'extreme' circumstances. We can only hope that there will be no need to resort to this in the near future.

317 Section III.5.2 discusses this legal institution in more detail.

V. The impact of digital developments based on international surveys³¹⁸

Following an examination of the steps involved in establishing a digital court³¹⁹ and the application of the results of these developments in emergency situations³²⁰, it is also worth considering where the level of digitalisation in Hungary stands in international comparison with other European countries.

Over the past decade and a half, the measurement of the quality of the administration of justice has come to the fore: as part of the review of the functioning of the courts, various projects have been launched around the world to define these standards, and in some countries integrated quality management systems have even been developed for the courts.³²¹ In relation to the subject of this monograph, I reviewed the level of digitisation and the objective indicators reflecting the development of information and communication technology in the courts, based on the two most important international surveys for Hungary—those conducted within the frameworks of the Council of Europe and the European Union—and their results.³²² In this context – from the perspective of the relationship between digitalisation and the resilience of the courts – I also examined data relating to the period before and after the pandemic, seeking to draw lessons and mapping out the obligations and opportunities of the period ahead.³²³

318 The content of this chapter has been published in: Judit GYARMATHY: Court digitisation in the light of international surveys. *Fontes Iuris*, 2024/3-4, pp. 49–62.

319 See Chapter III of the monograph.

320 See Chapter IV of the monograph.

321 Péter PACZOLAY: The Predictability and Consistency of Judicial Decisions. In: Tibor Nochtá – Gábor Monori (eds.): *Ius est Ars – Festschrift in honour of Professor Antal Visegrády on his 65th birthday*. Faculty of Law, University of Pécs. Pécs, 2015. p. 393.

322 For a detailed discussion of the dilemmas arising in connection with the methodology of measurements relating to legal systems and their individual elements, see: András JAKAB: Measuring the rule of law using indices. *Pázmány Law Working Papers*, 2015/12. pp. 1–21.

323 The CEPEJ's report on the 2024 evaluation cycle had already been published prior to the completion of this manuscript; however, I do not analyse it here, as the EU's scoreboard for the same period has not yet been finalised.

“2024 Evaluation cycle – 2022 data”: <https://www.coe.int/en/web/cepej/special-file>

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V.1. Assessment within the framework of the Council of Europe

The Council of Europe, based in Strasbourg and established in the spring of 1949 – which currently has 46 member states and numerous states enjoying observer status – essentially promotes the enforcement of human rights through international conventions, whilst monitoring and observing the progress of member states in this area. A number of monitoring bodies, comprising independent experts and formulating recommendations, are involved in this activity; the CEPEJ deals with the issue of the efficiency of the administration of justice.

Before presenting the CEPEJ and its evaluation mechanism, it is important to mention another body that is significant in this context. In 2000, the Committee of Ministers of the Council of Europe established the Consultative Council of European Judges (hereinafter: CCJE), a consultative body composed exclusively of judges and dealing with the independence, impartiality and competence of judges. Each member state may send to the body a delegate who has a thorough knowledge of the functioning of the judicial system and is of the highest personal integrity. The CCJE provides advice to the Committee of Ministers – and, through it, essentially to the member states – on matters relating to the legal status of judges and the exercise of their functions.

At its plenary session on 9 November 2011, the CCJE adopted Opinion No. 14 on the administration of justice and information technology (IT),³²⁴ in which the CCJE analysed the role of judges in this process and listed the advantages and disadvantages experienced by judges and litigants in this regard, and, within this framework, made very important observations and recommendations for the future.

Among the findings, they emphasised that information technology is a tool for improving the administration of justice and facilitating access to the courts, but that this must not lead to its ‘dehumanisation’: for, they add-

324 Opinion No. 14 of the Consultative Council of European Judges: Opinion No. (2011) 14 of the CCJE (translated by the author)
<https://rm.coe.int/168074816b> Downloaded 9 September 2024

ed, the administration of justice is humane and must remain so, as it deals primarily with people and their disputes. They also noted that IT must not infringe upon the procedural rights of the parties, and that the rights of vulnerable persons, including unimpeded access, must be adequately safeguarded.

In the conclusions and recommendations, it was explained that information technology can contribute to improving access to justice, case management and the evaluation of the justice system, and also plays a central role in informing those involved in proceedings, as well as the public and the media. With this in mind, they encourage the use of all aspects of information technology to promote the pre-eminent role of the rule of law in the administration of justice. They considered it important that this should be tailored to the needs of judges and other users, and must never infringe upon guarantees and procedural rights, such as the right to a fair hearing before a judge. They emphasised that judges must be involved in all decisions concerning the design and development of the IT systems of the judicial system. They formulated the following recommendation: judges must at all times retain the right to order the appearance of the parties, to require the production of original documents and to hear witnesses. Finally, they emphasised that information technology must not infringe upon the judge's powers nor jeopardise the fundamental principles enshrined in the European Convention on Human Rights.

The CCJE's recommendation is constantly borne in mind when assessing IT developments in judicial systems; despite more than ten years having passed since its adoption, its findings remain relevant today.

V.1.1. The purpose of establishing the CEPEJ, the organisation's function and operation

The European Commission for the Efficiency of Justice (CEPEJ) was established on 18 September 2002 by Resolution Res (2002) 12 of the Committee of Ministers of the Council of Europe. It is also worth presenting this organisation here because the process of its establishment, operation and the transparency of its data reporting demonstrate the credibility and objectivity of the data it publishes.

The CEPEJ's primary objective is to improve the efficiency and functioning of the judicial systems of member states in order to ensure effective enforcement of the law, to increase public confidence in the administration of justice,³²⁵ and to enhance the implementation of the instruments adopted by the Council of Europe for this purpose. Its establishment demonstrates the Council of Europe's intention to ensure that the European Convention on Human Rights – in particular Articles 5 (Right to liberty and security), 6 (Right to a fair trial), 13 (Right to an effective remedy) and 14 (Prohibition of discrimination) – to promote the rule of law and fundamental rights in Europe.

The CEPEJ is tasked with analysing the achievements of judicial systems, identifying the difficulties faced by individual member states, and developing recommendations to overcome them, whilst providing support to member states. It is also committed to promoting the exploitation of the potential of new information technologies to facilitate access to justice, improve the efficiency and functioning of the judicial system, reduce the costs of justice, and extend the services available to the public.

The CEPEJ's operation is governed by its Statute.³²⁶ Its functions are complex, precisely in order to facilitate cooperation and the exchange of experience between member states and participating international institutions: it examines the results achieved by the judicial systems of member states (including through the use of common statistical criteria and evaluation tools), identifies problems and potential areas for improvement; define specific methods – taking into account their individual needs – for measuring and improving the functioning of Member States' judicial systems; provide assistance to individual Member States upon request; and makes recommendations on areas in which the relevant steering committees of the Council of Europe, in particular the European Committee on Legal Co-operation (CDCJ), may, if they deem it necessary, draw up new international legal instruments or amendments to existing ones [Article 2(1)].

The CEPEJ employs a variety of working methods to carry out its diverse tasks effectively, such as: defining and developing indicators; collecting and

325 Resolution Res(2002) 12 of the Committee of Ministers of the Council of Europe, Article 1.

326 Resolution Res(2002) 12 of the Committee of Ministers of the Council of Europe, Appendix 1.

analysing quantitative and qualitative data; and defining evaluation tools; preparing reports, statistics, surveys on good practice, guidelines, action plans, opinions and general comments; establishing links with research institutes, documentation and study centres; involving experts and civil society organisations active in the relevant field, holding hearings; creating various networks of professionals involved in the administration of justice.

The CEPEJ holds a plenary meeting in Strasbourg at least once a year (usually twice a year, in June and December); in addition, it may hold ‘ad hoc’ meetings where justified, and may decide to set up working groups where necessary. Its activities can be followed on its official website³²⁷. Operational tasks relating to the organisation’s functioning are carried out by the CEPEJ Office, which is assisted by the CEPEJ Secretariat in liaising with member states.

The CEPEJ consists of experts appointed (delegated) by all 46 member states of the Council of Europe,³²⁸ who possess in-depth knowledge of the administration, functioning and efficiency of the judiciary in their respective member states; they are the participants with voting rights at plenary sessions. A number of other states and organisations – including the European Union, the European Judicial Training Network (EJTN) and several judicial associations – also participate in the organisation’s work as observers. In addition to the member, each Member State also designates a contact person who carries out operational tasks: their primary duty is to provide data to the CEPEJ; furthermore, their work is assisted by contact persons designated by the various professional bodies operating in the field of the judiciary within the Member State in question.

The CEPEJ has established working groups in four areas. Its working group on the evaluation of judicial systems (CEPEJ-GT-EVAL)³²⁹ is responsible for managing the process of evaluating the judicial systems of the Coun-

327 The official website of the CEPEJ: <https://www.coe.int/en/web/cepej> Downloaded on 9 September 2024.

328 The names and positions of CEPEJ members can be found on the CEPEJ website: <https://www.coe.int/en/web/cepej/country-profiles> Downloaded on 9 September 2024.

329 Subpage of the working group on the evaluation of judicial systems: <https://www.coe.int/en/web/cepej/cepej-work/evaluation-of-judicial-systems> Downloaded on 9 September 2024.

cil of Europe member states. The CEPEJ-GT-QUAL working group³³⁰ deals with the quality of justice, the CEPEJ-GT-CYBERJUST working group³³¹ (Cyberjustice Working Group) deals with the digitisation of justice and artificial intelligence, and the CEPEJ-SATURN working group³³² deals with judicial time management. The working groups consist of experts appointed by the CEPEJ for a two-year term from among candidates nominated by the member states, and their main task is the technical preparation of documents issued by the CEPEJ relating to their field of expertise and their submission to the General Assembly for adoption.

In addition, the CEPEJ operates three networks.

The members of the aforementioned network of national correspondents³³³ are the correspondents appointed by each member state (one per Member State), who ensure the collection and availability of the specified data from the relevant Member State for the CEPEJ's work on evaluating judicial systems – with the involvement of contact points from the various professions within the judiciary. The data they enter into the detailed evaluation questionnaire is of a quantitative and qualitative nature; where appropriate, it is accompanied by comments to facilitate a better understanding of the legal systems and their specific features, to place them in context, and to provide explanations for any discrepancies observed during the various evaluation cycles.

The Network of Pilot Courts³³⁴ consists of so-called pilot courts operat-

330 Subpage of the Working Group on the Quality of Justice:
<https://www.coe.int/en/web/cepej/cepej-work/quality-of-justice> Downloaded: 9 September 2024

331 Subpage of the working group on cyber justice and artificial intelligence:
<https://www.coe.int/en/web/cepej/cepej-working-group-cyber-just> Downloaded: 9 September 2024

332 Subpage of the working group on court time management:
<https://www.coe.int/en/web/cepej/cepej-work/saturn-centre-for-judicial-time-management> Downloaded: 9 September 2024

333 Subpage of the network of national contact points:
<https://www.coe.int/en/web/cepej/cepej-national-correspondents> Downloaded: 9 September 2024

334 Subpage of the network of pilot courts:
<https://www.coe.int/en/web/cepej/cepej-work/network-of-pilot-courts> Downloaded: 9 September 2024.

ing in individual Member States, and its primary task is to provide deeper insight into the day-to-day operations of the courts in the Member States, as well as to promote the dissemination of best practices developed within national justice systems. A pilot court can be a court of any level or dealing with any type of case.³³⁵

Pilot courts fulfil a threefold role. On the one hand, they act as information forums, serving as key recipients of information regarding the work and results of the CEPEJ; in this context, their task is to disseminate this information within their own national court systems. On the other hand, they fulfil a consultative role: the CEPEJ regularly seeks their views on the issues under discussion, usually in the form of online questionnaires and feedback on the key elements of instruments awaiting adoption. Thirdly, they act as a forum for implementation, contributing to the practical application and dissemination of innovative projects relating to the efficiency and quality of the administration of justice.

Within the framework of the European Cyberjustice Network (ECN)³³⁶, established in 2021, there is an opportunity to exchange best practices relating to digitalisation and artificial intelligence, as well as to contribute to the definition of the Council of Europe's future initiatives in these areas.

This network supports the work of the CEPEJ, and its activities are steered by the CEPEJ-GT-CYBERJUST. Within this framework, they provide up-to-date background and statistical information on individual member states; put forward proposals for new projects and action plans; it participates in the dissemination of information and tools developed by CEPEJ-GT-CYBERJUST, organises training where appropriate for the relevant bodies of the member states; and provides a platform for the development of e-justice applications in the field of bilateral and multilateral cooperation.

335 In Hungary, this task is performed by the Veszprém Regional Court.
<https://www.coe.int/en/web/cepej/country-profiles/hungary>
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336 The European Cybercrime Network's sub-site:
<https://www.coe.int/en/web/cepej/european-cyberjustice-network>
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V.1.2. Evaluation of judicial systems

Following a pilot period from 2002 to 2004, the CEPEJ has been regularly evaluating the judicial systems of Council of Europe member states since 2004. There are two evaluation cycles: one is the CEPEJ evaluation cycle of judicial systems, in which all member states and three observer states participate every two years; the other is the study entitled ‘European Union Justice Scoreboard’, produced annually at the request of the European Commission (in addition, a scoreboard is also produced based on the examination of specific questions – ‘action plans’ – within the framework of the Western Balkans³³⁷ and the Eastern Partnership³³⁸), which constitutes the annual evaluation of the parties concerned; each of the questionnaires consists of extracts from the CEPEJ’s main evaluation questionnaire. This is, incidentally, one of the main sources for the European Commission’s Justice Scoreboard – the EU Justice Scoreboard³³⁹ –: objective data is analysed and presented on this basis.

Section V.2 of the monograph contains the results of surveys conducted on digitalisation based on the CEPEJ methodology; here I consider it sufficient to present Hungary’s position regarding the indicators reflecting the level of digitalisation among the member states of the Council of Europe, which, in a broader context, demonstrates the impact of technological advancements on the administration of justice.

The results of surveys conducted in this field demonstrate the competitiveness of Hungary’s previously described achievements in digitalisation: the latest comprehensive analysis of judicial systems’ performance from

337 Towards a better assessment of the results of judicial reforms in the Western Balkans – ‘Dashboard Western Balkans’ subpage:

<https://www.coe.int/en/web/cepej/towards-a-better-evaluation-of-the-results-of-judicial-reforms-in-the-western-balkans-dashboard-western-balkans> Downloaded: 10 September 2024

338 Subpage for a better assessment of the results of efforts towards judicial reform in the Eastern Partnership (“Justice Dashboard EaP”):

https://www.coe.int/en/web/cepej/justice-dashboard-eap/-/asset_publisher/IpqkU7qY-goK4/content/launch-of-the-justice-dashboard-eastern-partnership-project Downloaded: 10 September 2024.

339 See section V.2 for details.

2022³⁴⁰ reveals that Hungary is among the European leaders in terms of indicators related to information and communications technology (information and communications technology – ICT). In this context, the CEPEJ – focusing on technologies that pose a challenge to the courts – uses, first and foremost, an index score ranging from 0 to 10 (the so-called ICT index) to assess three types of ICT tools (decision-support tools, court and case management systems, and tools supporting communication between courts, professionals and clients), both in aggregate and broken down by ICT tool and by legal field. In this regard, however, it draws attention to the fact that this index only indicates the presence of ICT tools, but does not relate to their actual use, nor does it show their effectiveness or their impact on the efficiency of the administration of justice.³⁴¹

In terms of the prevalence of ICT tools, Hungary occupies a prominent position in the ranking of Council of Europe member states, both in the overall results and in the sub-categories. In the overall ranking, it stands in third place with 9.7 points – behind Estonia and Latvia, which are tied for first place:

340 European judicial systems CEPEJ Evaluation Report – 2022 Evaluation cycle (2020 data) – European judicial systems CEPEJ Evaluation Report – 2022 Evaluation cycle, 2020 data (translated by the author)

<https://rm.coe.int/cepej-report-2020-22-e-web/1680a86279>

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341 2022 Evaluation cycle, p. 118.

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

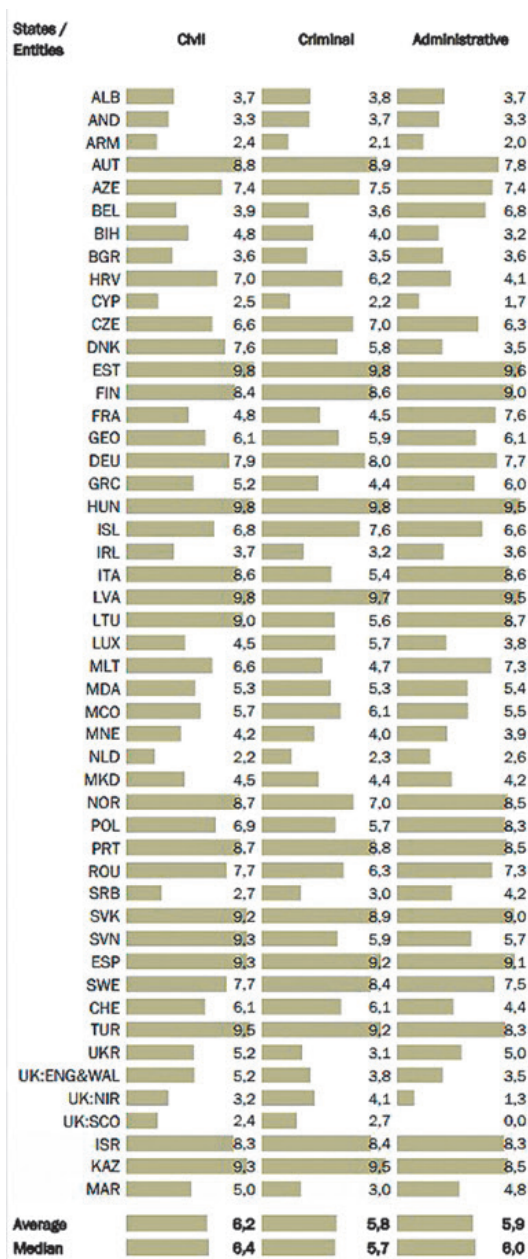


Figure 8: ICT index in civil, criminal and administrative matters in 2020.³⁴²

342 Source: 2022 Evaluation cycle, p. 119, Table 4.3.8.

In the breakdown by ICT tools, we achieved the maximum 10 points for two tools (decision-support tools and tools supporting communication between courts, professionals and clients). This is significant not only in itself, but also because it was the first time that a 10-point score was achieved for all three ICT tools; this was achieved by Hungary, Estonia and Latvia.³⁴³

Broken down by case type, Hungary scored 9.8 points in civil and criminal cases, and 9.5 points in administrative cases. The CEPEJ specifically mentions Hungary among those Council of Europe member states where there is only a slight difference between the indicators for the three case types, in contrast to other Council of Europe member states where there is a striking difference of up to 3–4 points between the indicators for the individual case types.³⁴⁴

V.1.3. ‘Better justice through digitalisation’

At its plenary session in December 2021, the CEPEJ adopted an action plan for the period 2022–2025 entitled ‘Digitalisation for a better justice system’, under which the CEPEJ’s priority during this period is to contribute to the successful transition of states and courts to a digital justice system, in accordance with European standards and, in particular, Article 6 of the European Convention on Human Rights.³⁴⁵ It is a priority that, alongside ongoing digitalisation, the administration of justice should remain humane, efficient and of a high standard; to this end, the key principles and guidelines to be followed by the CEPEJ in its involvement in this process have been defined, as follows.

The digitisation process must serve the efficiency of the administration of justice: when transitioning from paper-based files to electronic case files, and when digitising the functioning of the justice system and inter-institu-

343 2022 Assessment Cycle, p. 119, Table 4.3.8.

344 2022 Evaluation Cycle, p. 120, Table 4.3.9.

345 2022–2025 CEPEJ Action Plan: ‘Digitalisation for a better justice system’ (translated by the author).

<https://rm.coe.int/cepej-2021-12-en-cepej-action-plan-2022-2025-digitalisation-justice/1680a4cf2c>

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tional relations, care must be taken to ensure that the technologies chosen are the most appropriate and compatible with a high-quality, efficient, accessible and impartial justice system.

Furthermore, it plays an important role in ensuring transparency: new technologies must provide users with a more thorough understanding of procedures and enable them to track the progress of cases. It is also essential that, in the interests of better cooperation, participants in proceedings have the opportunity to communicate with one another via an electronic platform.

They emphasised the importance of ‘human-centred justice’: they noted that whilst digitalisation increases efficiency, efforts should not be made to replace the judge, and the judge must remain at the centre of the proceedings. By the term “people-centred justice”, they mean that professionals working in the justice system and users must be continuously supported through training, which contributes not only to efficiency but also – through a comprehensive understanding of the rules and procedures – to the independence of the judiciary. In addition, the CEPEJ plays an important role in developing an informed judiciary: greater use must be made of the results of evaluations of judicial systems, and through these, it must provide even more analysed information, which can be used to provide more precise answers to the questions that arise. Finally, they emphasise the CEPEJ’s responsible and responsive role; its tools must be visible and accessible so that it can fulfil its mission: to respond to enquiries quickly, concretely and effectively by utilising the expertise at its disposal.

As part of the process supporting digitalisation, the CEPEJ’s Cyberjustice Working Group drew up proposals in 2023 for ‘*Guidelines on Online Alternative Dispute Resolution*’, with the aim of improving the efficiency of the justice system by reducing the workload of the courts and offering parties the opportunity to settle their disputes in a cost-effective manner. The guidelines are based on the principles of availability, accessibility and awareness, taking into account the specific characteristics arising from the use of information and communication technology in online alternative dispute resolution (ADR). In the context of accessibility, service providers are advised to design ADR procedures in a user-friendly manner, enabling the parties to partic-

ipate effectively in the online process. The document was adopted by the CEPEJ at its 41st plenary session held on 4 and 5 December 2023.³⁴⁶

The CEPEJ is compiling digitalisation and artificial intelligence-based solutions from individual member states in a separate knowledge base accessible to all.³⁴⁷

One of the most interesting and forward-looking developments among these is the OLGA system established in Germany.³⁴⁸ Its development was prompted by the chaotic situation caused by the so-called mass diesel lawsuits: major car manufacturers – due to incorrect exhaust emission values – have generated numerous lawsuits, in which the parties almost always appeal the first-instance judgement, meaning that the number of cases pending at second instance has increased tenfold in just a few years. Moreover, in these cases – due to advances in technology – submissions are becoming increasingly lengthy, and the cases differ from one another only in a few, yet very important, details, the manual screening of which would generate an extremely heavy workload. This situation called for automation: over the course of around six months, staff at the Oberlandesgericht (OLG) in Stuttgart implemented the OLGA system, which uses artificial intelligence to ‘mine for data gems’: based on parameters specified by the judge, it reviews all documents, groups cases together and modifies the specified decision templates. This not only saves time but also makes it easier to review cases and schedule hearings.

In this system, artificial intelligence analyses the files and organises them according to the facts: this systematisation based on recurring characteristics is a schematic activity that assists judges; judges remain responsible for processing and reviewing the content and for making decisions.

346 Guidelines on online alternative dispute resolution (translated by the author). <https://rm.coe.int/cepej-2023-19final-en-guidelines-online-alternative-dispute-resolution/1680adce33> Downloaded: 10 September 2024.

347 CEPEJ Resource Centre on Cyberjustice and AI – Resource Centre Cyberjustice and AI by CEPEJ, see: <https://public.tableau.com/app/profile/cepej/viz/ResourceCentreCyberjusticeandAI/AITOOLSINITIATIVESREPORT?publish=yes> Downloaded: 10 September 2024.

348 The OLG Stuttgart uses artificial intelligence in diesel lawsuits (translated by the author) <https://www.baden-wuerttemberg.de/de/service/presse/pressemitteilung/pid/einsatz-kuenstlicher-intelligenz-zur-bewaeltigung-der-diesel-verfahren> <https://rsw.beck.de/aktuell/daily/meldung/detail/dieselklagen-flut-kuenstliche-intelligenz-soll-richter-am-olg-stuttgart-entlasten> Downloaded: 10 September 2024.

Another development that effectively utilises artificial intelligence in court proceedings is the AI-based speech recognition tool used in Spanish courts to produce trial transcripts. This machine-learning tool not only records the hearing on video and transcribes the audio, but also features a spell-check function and recognises individual speakers.³⁴⁹ Free-text search within the video content allows users to locate specific moments in the recording when the word they are looking for was spoken. The use of the system has a significant resource-saving effect, as it eliminates the need for manual transcription of the text recorded in the footage. According to data from the Ministry of Justice, between May 2020 and December 2023, more than 1,400,000 transcripts were produced from the recordings.³⁵⁰

V.2. The impact of digital developments in the light of the EU Justice Scoreboard

V.2.1. The European Semester

The European Semester – the annual cycle of economic policy coordination at EU level – was established by the European Union in 2010 following the 2008 economic crisis, in 2010 by the European Union on the basis of Articles 121 and 148 of the Treaty on the Functioning of the European Union (TFEU), with a view to monitoring and coordinating economic and social policies and ensuring better alignment with EU rules and objectives. The proposals formulated within this framework are regarded as recommendations to Member States – country-specific recommendations (CSRs).³⁵¹ The European Semester lists improving the efficiency of Member States' judicial systems among its priorities.

349 For details of how it works, see: https://www.youtube.com/watch?v=8GO_u0Mrh5I Downloaded: 10 September 2024.

350 Access to justice – Services and solutions: drafting of records (translated by the author). <https://www.administraciondejusticia.gob.es/-/soluciones-textualizacion-de-grabaciones> Downloaded: 10 September 2024.

351 András Bíró-Nagy – Gergely Laki: Recommendations and their implementation. The V4's country-specific recommendations in a European context. *Journal of Political Science*, 2021/1, p. 8.

V.2.2. The purpose and structure of the Justice Scoreboard

At the beginning of the last decade, the European Commission – recognising that, amidst the changes brought about by the economic crisis then unfolding, national judicial systems play a key role in restoring confidence and stability, and in kick-starting growth – decided to draw up a Justice Scoreboard to facilitate the implementation of the priority set out within the framework of the European Semester. The aim was to promote more effective justice delivery within the European Union and the Member States by providing objective, reliable and comparable data on the Member States’ judicial systems, so as to identify best practices and areas for improvement and shortcomings.³⁵² In the 2013 Annual Growth Survey, the European Commission emphasised that maintaining the pace of reforms is key to restoring confidence and returning to growth, and that, in this context, ‘the quality and independence of judicial systems can be improved.’³⁵³ In view of this, and taking into account the principle of mutual recognition and cooperation as well as the need to strengthen mutual trust, it was deemed necessary to conduct regular, comparable reviews of Member States’ judicial systems with a view to potentially formulating country-specific recommendations.

From the perspective of effective judicial protection, it is significant that national courts are also EU courts, and national judges are EU judges: that is to say, they apply EU law, which is why the second subparagraph of Article 19(1) of the Treaty on the Functioning of the European Union expressly requires Member States to establish the legal remedies necessary to ensure effective legal protection in areas governed by EU law.³⁵⁴ The impor-

352 EU Justice Scoreboard 2013, p. 2
<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1555419867264&uri=CELEX:52013DC0160>
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353 Commission Communication – Annual Growth Survey 2013 COM (2012) 750 final, p. 16.
https://eur-lex.europa.eu/resource.html?uri=cellar:6c2222b6-73b4-4a6f-9483-5323de2c-5cf8.0022.02/DOC_3&format=PDF
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354 Balázs LEHÓCKI: The independence of national courts responsible for the application of EU law. *Acta Humana – Human Rights Bulletin*, 2019/3, pp. 152–153.

tance of the right to an effective remedy is also reflected in the Charter of Fundamental Rights of the European Union³⁵⁵.

It was also emphasised that Article 67(1) TFEU – which states that the Union constitutes an area of freedom, security and the rule of law, in which fundamental rights and the different legal systems and traditions of the Member States are respected – must be borne in mind during the comparison and analysis.

V.2.3. Compilation of the Justice Scoreboard

Since 2013, the European Commission has published the EU Justice Scoreboard,³⁵⁶ which, for information purposes, contains specific data on the judicial systems of the Member States relating to their efficiency, quality and independence. As no two judicial systems are alike, it is important to note that the scoreboard is not intended to prioritise or highlight any particular system, but rather to provide a broad overview so that areas for improvement and directions for development can be identified. Although it was not designed to establish a ranking, over the past decade or so, a sort of order – if not precise, then at least approximate – has emerged among Member States with regard to certain indicators (e.g. length of proceedings, degree of digitisation). These indicators certainly reflect the extent to which individual Member States are aware of the issues in the given area and what measures they have taken; in other words, the impact of the common approach can be tracked.

355 Article 47 of the Charter of Fundamental Rights of the European Union: The right to an effective remedy and to a fair trial. Everyone whose rights and freedoms guaranteed by Union law have been infringed has the right to an effective remedy before a tribunal in accordance with the conditions laid down in this Article.

Everyone has the right to have their case heard fairly, in public and within a reasonable time by an independent and impartial tribunal previously established by law. Everyone must be guaranteed the opportunity to seek advice, defence and representation. Those who lack sufficient means must be granted legal aid where this is necessary to ensure effective access to justice.

356 EU Justice Scoreboards 2013–2024.

https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/eu-justice-scoreboard_hu Downloaded: 10 September 2024.

It should be noted that the data sets presented in the scoreboard change from year to year and are continuously expanded through dialogue with the Member States. Initially, the survey focused primarily on the time dimensions and efficiency indicators of court cases (as defined in the 2013 scoreboard:³⁵⁷ civil and commercial, enforcement, land registry, company registration and administrative cases) (duration of proceedings, completion rate and number of pending cases) subsequently placed increasing emphasis on the digital sophistication of judicial systems and judicial independence. From the outset, the Scoreboard has also examined indicators relating to the courts' information and communication technology systems, within the framework of reducing the duration of proceedings and improving the quality of judgments.³⁵⁸

The data collection and analysis underpinning the scoreboard is carried out by the CEPEJ – operating under the system described in Section V.1 – at the request of the European Commission and under a contract with it,³⁵⁹ but it also uses data collections and surveys from other organisations (e.g. Eurostat, the World Bank, the World Justice Project).

V.2.4. Reflecting developments in digitisation in the EU Justice Scoreboard

The Justice Scoreboard, first published in 2013, emphasised in its subtitle that it is a tool for promoting efficient justice and growth. The introduction made a point of highlighting that predictable, swift and enforceable judicial decisions are key structural components of an attractive business environ-

357 EU Justice Scoreboard 2013, p. 6.

https://commission.europa.eu/document/download/e6cdc21d-1729-4e49-a9b6-c262fb003338_en?filename=justice_scoreboard_2013_en.pdf&prefLang=hu Downloaded: 6 September 2024.

358 For an analysis of the EU Justice Scoreboard covering the period 2013–2017, see: András TÉGLÁSI: *The European Union Justice Scoreboard – the first five years*. In: Tamás Kaiser (ed.): *The Measurability of the Good State III*. Dialóg Campus Publishing. Budapest, 2019. pp. 34–45; for an analysis of the 2020 scoreboard from a digitalisation perspective, see: KÉKEDI – ZÓDI, op. cit.: pp. 43–48.

359 For the studies prepared by the CEPEJ for the EU Justice Scoreboard, see: <https://www.coe.int/en/web/cepej/cepej-study-for-the-eu-justice-scoreboard> Downloaded: 6 September 2024.

ment, as they maintain the confidence necessary for starting businesses, enforcing contracts, settling private debts, and protecting property rights and other rights.³⁶⁰

The sophistication and proper functioning of the courts' ICT systems are of fundamental importance to the efficient operation of the justice system, which justifies the development and monitoring of relevant indicators in this regard, whilst adapting to future changes.

V.2.4.1. The significance and impact of digitisation on the administration of justice, in relation to the scoreboard

ICT systems play a significant role in reducing the duration of proceedings, in access to justice, and in cross-border cooperation between judicial authorities. In reducing the duration of proceedings, the digitisation of case registration and management plays a key role; in terms of access to justice, electronic communication and remote access to electronic files are of great importance.

The efficient functioning of the justice system is only conceivable alongside high standards and quality, which can be promoted by digitisation and modern, continuously available ICT tools; indeed, their smooth operation is one of the foundations of this. As the 2014 Justice Scoreboard emphasises: "Inadequate quality of judicial decisions can increase the risk of doing business for large companies and SMEs, and influence consumer decisions."³⁶¹

The 2016 Growth Report also noted the need to ensure that court proceedings are expedited, the backlog of cases is cleared, safeguards protecting the independence of the judiciary are strengthened, and the quality of the administration of justice is improved, including, amongst other things, the

360 EU Justice Scoreboard 2013, p. 2.
<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1555419867264&uri=CELEX:52013DC0160>

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361 EU Justice Scoreboard 2014, p. 17.
<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1555419819123&uri=CELEX:52014DC0155>

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more effective use of ICT tools in the courts and the application of quality standards.³⁶²

The relevant indicators in the scoreboard are refined and adjusted year on year to reflect changes and technological developments. Initially, the focus was on case registration, case management and electronic communication between courts and clients (e.g. electronic web forms, court websites, on-line case tracking, electronic records, electronic processing of small claims and uncontested claims, electronic submission of applications, and video-conferencing), and was subsequently expanded to include data on the on-line availability of judgments, practices relating to the online publication of judgments, and the various digital tools available to judges, prosecutors and judicial staff.

V.2.4.2. Monitoring of courts' ICT systems up to 2020

Even the first scoreboard, published in 2013, considered the development and functioning of courts' ICT systems to be important in relation to both reducing the duration of proceedings and improving the quality of justice. In relation to the importance of these systems, it was also noted that ICT tools play a key role in the future of EU justice based on mutual trust.³⁶³

V.2.4.2.1. ICT systems for case registration and management

With regard to ICT systems for case registration and management, which play a role in reducing the duration of proceedings, it was noted that the majority of Member States were already at an adequate level of development in this respect. It is worth noting that, in this respect, Hungary, along with 14

362 Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank – Annual Growth Survey 2016, 26 November 2015, COM(2015) 690 final, p. 14.

363 EU Justice Scoreboard 2014, p. 28.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1555419819123&uri=CELEX:52014DC0155>

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other Member States, received the maximum score of 4 points (in the case of two Member States, this value was 2 or less), which means that this system was already available in all domestic courts at that time.

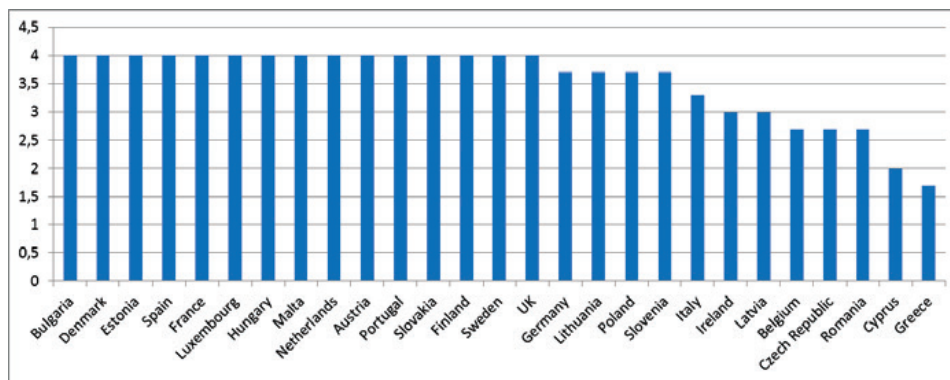


Figure 9: ICT systems for case registration and management (weighted indicator – min=0, max=4), EU Justice Scoreboard 2013.³⁶⁴

V.2.4.2.2. ICT systems facilitating electronic communication between the parties

It is particularly interesting, in light of developments in the subsequent period, that in the context of reducing the duration of proceedings and rationalising costs,³⁶⁵ as well as access to justice, Hungary still achieved a relatively low score among Member States in 2013 in the area of ICT systems facilitating electronic communication between courts and

³⁶⁴ Source: EU Justice Scoreboard 2013, p. 16, Figure 13.
<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1555419867264&uri=CELEX:52013DC0160>
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³⁶⁵ In its analysis of the 2016 Scoreboard, it notes that the lack of ICT tools makes court proceedings more complicated and costly for both the courts and the parties; for example, in one Member State, a reform enabling courts to serve documents on parties and lawyers electronically resulted in savings of more than EUR 4.2 million in 2015 (representing more than 2 % of the courts' budget).
 EU Justice Scoreboard 2016, p. 34.
<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1555419683920&uri=CELEX:52016DC0199#footnote6>
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parties (e.g. electronic communication) in 2013, Hungary still achieved a relatively low score among Member States (below 2 points compared to the highest score of 4 points), with eight other Member States scoring lower at that time. In this context, it is important to note that these figures reflect the situation in 2012 and – as detailed in section III.4.2 of the monograph – it was at this time that the wider, initially optional, and subsequently mandatory in certain sectors,³⁶⁶ thanks to which our ranking improved significantly in the years that followed. In 2014, this score approached 2.5, and by the 2017, 2018, 2019 and 2020 results, Hungary was at the top of the field, scoring the maximum 4 points for case submission and service of summons, whilst for the electronic tracking of procedural stages, it scored either 3 or 4 points.

V.2.4.2.3. Online availability of judgments

The scoreboard analyses the online availability of judgments not in terms of ICT tools but in relation to court communications, on the basis that easier access to judgments helps parties make informed decisions regarding legal remedies and contributes to increasing trust in the courts.³⁶⁷ Furthermore, ensuring online access to judgments increases the transparency of judicial systems, helps citizens and businesses to understand their rights, and can contribute to ensuring consistency in case law.³⁶⁸ It cannot be overlooked that the establishment, development and operation of online access take place within an IT framework; I therefore consider it appropriate to examine this topic in this chapter as well.³⁶⁹

This topic first appeared in the 2015 scoreboard, and Hungary ranked among the leaders with the highest score of 12 points based on the crite-

³⁶⁶ See further in section III.4.2.2 of the monograph.

³⁶⁷ For further details, see section III.2 of the monograph.

³⁶⁸ EU Justice Scoreboard 2019, p. 34.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1562062740889&uri=CELEX:52019DC0198>

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³⁶⁹ The publication of decisions and the issue of anonymisation, as well as the regulatory process and its progress, are discussed in detail in Section III.2.

ria examined – the number of court levels involved, whether decisions are freely accessible to the public or only to those concerned, and whether the website is updated at least once a month.³⁷⁰

In terms of practices relating to the online publication of judgments, Hungary lagged slightly behind but still ranked in the top half of the leaderboard; a shortcoming identified was the failure to include the European Case Law Identifier (ECLI)³⁷¹.³⁷² However, together with six other Member States, it achieved the highest score in terms of the online accessibility of published judgments to the public.³⁷³

Following the findings of the scoreboards, it can be seen that the online availability of court judgments shows a steadily improving trend; so that in 2019, for example, the highest courts – i.e. those shaping case law – in 19 Member States publish all judgments in civil/commercial and administrative law cases.³⁷⁴ The European Commission has also drawn attention to the fact that, given the large volume of published decisions, it is essential to de-

370 EU Justice Scoreboard 2015, p. 27, Figure 29.

https://commission.europa.eu/document/download/ec5e4e78-11ac-41ce-b2e6-8c61183495f6_en?filename=justice_scoreboard_2015_en.pdf&prefLang=hu
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371 Council Conclusions of 29 April 2011 on the call for the introduction of the European Case Law Identifier (ECLI) and a minimum set of uniform case law metadata (OJ 2011 C 127, p. 1) The ECLI – apart from the prefix ‘ECLI’ – consists of the following four mandatory elements:

- the code corresponding to the Member State of the court concerned or, where applicable, the European Union;
- the abbreviation corresponding to the court that issued the decision;
- the year of the decision;
- a reference number consisting of letters and digits, not exceeding 25 characters, which must be formed in the format specified by each Member State or by the relevant supranational judicial body. The serial number must not contain any punctuation marks other than the full stop (‘.’) and the colon (‘:’), the latter of which separates the various parts of the ECLI.

372 Note: as of today – at the time of finalising this manuscript – this has not yet been implemented.

373 EU Justice Scoreboard 2019, p. 34, Figure 25.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1562062740889&uri=CELEX:52019DC0198>
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374 EU Justice Scoreboard 2019, p. 34, Figure 25.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1562062740889&uri=CELEX:52019DC0198>
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velop user-friendly, innovative legal technology search tools³⁷⁵, the domestic need for which is also discussed in section III.2.3 of the monograph.

A new item has been added to the 2020 scorecard: the organisation of the production of machine-readable court decisions.

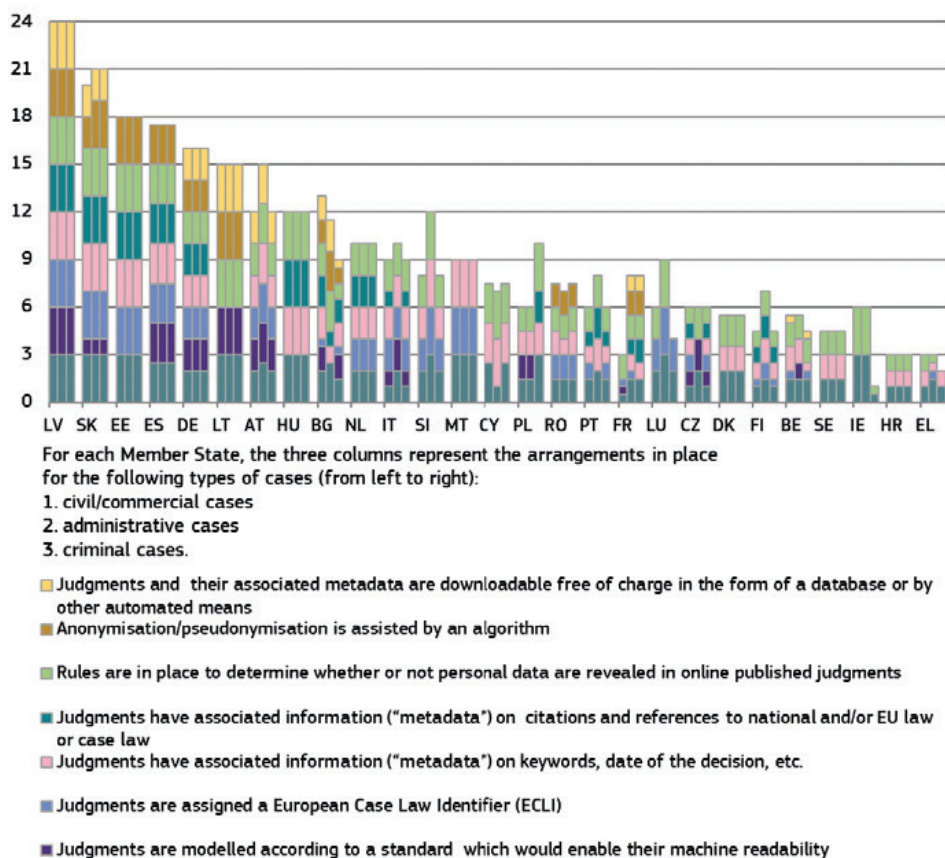


Figure 10: Organisation of the production of machine-readable court decisions, 2019³⁷⁶

375 EU Justice Scoreboard 2020, p. 30.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=CELEX:52020DC0306>
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376 Source: EU Justice Scoreboard 2020, p. 32, Figure 29.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=CELEX:52020DC0306> Downloaded: 6 September 2024.

As can be seen in the figure above, the following criteria have been met in Hungary: anonymisation/pseudonymisation is supported by an algorithm; rules are in place to determine whether personal data should be disclosed in judgments published online; judgments contain related information ('meta-data') in the form of quotations from, or references to, national and/or EU law or case law; court decisions are accompanied by information ('meta-data') such as keywords, the date of the decision, etc. However, the requirement that judgments and the associated metadata be freely downloadable in the form of a database or via other automated means is not met; judgments are still not assigned a European Case Law Identifier (ECLI), and in the absence of standardised modelling, their machine readability is not yet possible.³⁷⁷ It should be noted that these shortcomings – with the exception of the use of the European Case Law Identifier – also exist in most Member States, but the possibilities raised in the scoreboard may be included as objectives in their future development plans.

V.2.4.3. Recognising the need to move forward: the Council's conclusions ('Access to justice – Harnessing the potential of digitalisation') and the Commission's communication (Digitalisation of justice in the European Union: A toolkit of opportunities).

I have previously noted that the Covid-19 pandemic and its impact were a watershed moment in the process of the digitalisation of justice.³⁷⁸ In October 2020, the Council of the European Union published its conclusions under the title 'Access to justice – Harnessing the potential of digitalisation',³⁷⁹ through which it essentially sets out specific proposals regarding access to justice and related digitalisation developments, and where appropriate, outlines the direction of action. It noted that the digital transformation has fundamentally

³⁷⁷ EU Justice Scoreboard 2020, p. 32.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=CELEX:52020DC0306> Downloaded: 6 September 2024.

³⁷⁸ See Chapter IV of the monograph for details.

³⁷⁹ Council Conclusions ('Access to justice – Harnessing the potential of digitalisation') (2020/C 342 I/01).

<https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=OJ:C:2020:342I:FULL> Downloaded: 6 September 2024.

changed people's lives over the past decades, and that this process will continue in the future. It emphasised that digital technologies are already key elements of an effective justice system, and that access to them must be ensured without discrimination, and that they can also be used to promote respect for the rule of law (point 8). It referred to the importance of cooperation between Member States and noted that, with this in mind, it is desirable to develop rapid and secure interoperable solutions covering the entire course of proceedings (point 15). It also emphasised that the Covid-19 crisis has reinforced the need to invest in and use digital tools in Member States' judicial proceedings and cross-border proceedings (point 24). Finally, it called on the Commission to develop a comprehensive EU strategy on the digitalisation of the judiciary and to further improve the monitoring of relevant indicators in the EU Justice Scoreboard, with a view to improving the efficiency of judicial systems (point 28).

To summarise the findings, in response to the Council's call, the European Commission adopted a communication in December 2020 entitled 'The digitalisation of justice in the European Union – A toolkit of opportunities'.³⁸⁰ This document is essentially a strategy aimed at improving the efficiency of justice systems through the use of digital technologies, whilst ensuring adequate access to justice, in which the Commission sets out its supportive stance on further accelerating the digitalisation of justice, whilst noting that greater attention must be paid in future to further strengthening the resilience of justice systems and to enhancing cross-border judicial cooperation. It sets as its objective – in order to overcome the obstacles arising from differences between national systems that slow down cooperation – the use of secure, high-quality telecommunications technologies (video conferencing) as part of the further digitalisation of the justice system, facilitating the interconnection of national databases and registers, and promoting the use of secure electronic data transmission channels between competent authorities.

According to its wording, the communication approaches the digitisation of the justice system from a new perspective, through a toolkit. This toolkit comprises a range of legal, financial and IT tools that individual stakehold-

380 Commission Communication (The digitalisation of justice in the European Union: A toolkit of opportunities) {SWD(2020) 540 final}
<https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=CELEX:52020DC0710> Downloaded: 6 September 2024

ers can apply according to their needs. According to the Commission's proposal, these tools include: financial support for Member States, legislative initiatives, IT tools, and the promotion of the use of national coordination and monitoring tools. The communication also mentions the potential for using artificial intelligence, but draws attention to the risks involved and the need for a cautious approach to its introduction.

According to the communication, in order to improve traceability and make more effective use of experience, the Commission will amend the content of the Justice Scoreboard; the results of this are set out in the following point.

V.2.4.4. Closer monitoring and tracking of digitalisation from 2021 – the impact of the Covid-19 crisis

The Covid-19 pandemic has demonstrated the importance of the modern digitalisation of the justice system and its continuous development. Of course, it was not merely a matter of having digital tools at one's disposal; in many cases, special procedural and administrative rules had to be devised in response to the emergency – whilst ensuring access to justice – in order to maintain the functioning of the justice system; Chapter IV of the monograph deals with this in detail.

The 2021 scoreboard gives priority to the issue of digitalisation, analysing it in a separate section. First and foremost, it examines whether the legal systems of the Member States are sufficiently prepared for digital systems: in this context, the admissibility of evidence submitted exclusively in digital form, the possibility of conducting the entire oral phase of proceedings using telecommunications technology, the possibility of interpretation when using telecommunications technology, and the possibility of hearing experts and witnesses, as well as the parties/defendants/victims, using telecommunications technology. According to the table at,³⁸¹ Hungary is among those Member States where the legal system provides for all these possibili-

381 EU Justice Scoreboard 2021, p. 44, Figure 40.

<https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=CELEX:52021DC0389> Downloaded: 6 September 2024.

ties; only in the area of the submission of evidence by electronic means are the rules not yet fully in place.

Figure 40: Procedural rules allowing digital technology in courts in civil/commercial, administrative and criminal cases (*)

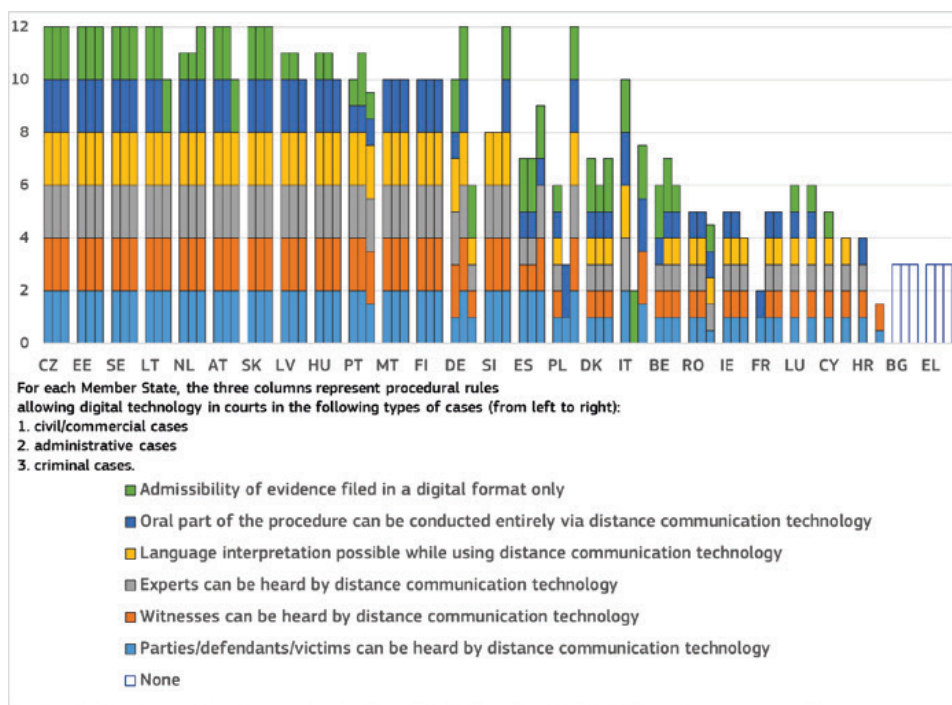


Figure 11: Procedural rules enabling the use of digital technology in civil/commercial, administrative and criminal cases in the courts ³⁸²

The scoreboard also includes data on the use of digital tools, which essentially aims to assess the availability of the digital infrastructure required for courts to carry out their work in a timely, efficient and high-quality manner. As far as the courts are concerned, Hungary ranks in the top third of

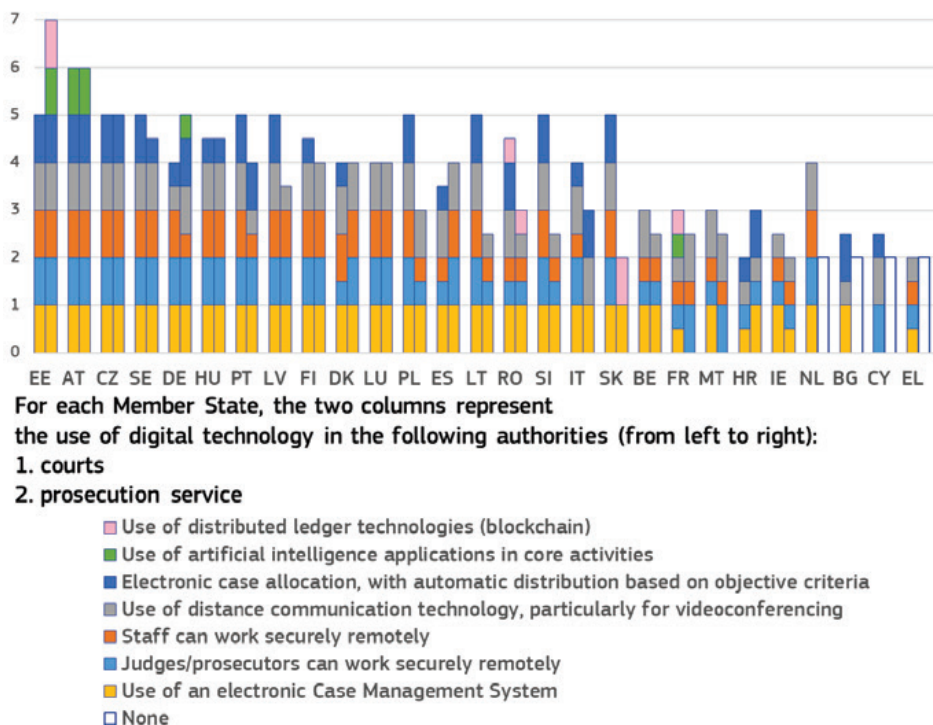
382 Source: EU Justice Scoreboard 2021, p. 44, Figure 40.
<https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=CELEX:52021DC0389> Downloaded: 6 September 2024.

Member States, with the use of electronic case management systems being ensured, the conditions for secure remote working being in place for judges and judicial staff, the possibility of using telecommunications technology, particularly videoconferencing and, to some extent, the possibility of using an electronic case allocation system based on objective criteria. The Commission is also examining two elements that are not yet in place in our country: the use of artificial intelligence applications to carry out core activities in courts, initially only in Austria and France, then in Denmark, Estonia, Poland, Luxembourg and Slovakia, whilst the use of distributed ledger technologies (blockchain) in courts has only emerged in Romania and France, followed by Estonia and Poland.³⁸³

383 2021 Scoreboard, p. 45, Figure 41, and the EU Justice Scoreboard 2022, p. 41, Figure 43.
https://commission.europa.eu/document/download/123138e5-f651-44e4-963e-65b721c4f5e7_en?filename=eu_justice_scoreboard_2022.pdf&prefLang=hu
Downloaded: 6 September 2024, and the EU Justice Scoreboard 2023, p. 42, Figure 42.
https://commission.europa.eu/document/download/db44e228-db4e-43f5-99ce-17ca3f2f2933_en?filename=Justice%20Scoreboard%202023_0.pdf&prefLang=hu
Downloaded: 6 September 2024

Figure 41: Use of digital technology by courts and prosecution services

Maximum possible: 7 points. For each criterion, one point was given if courts and prosecution services, respectively, use a given technology and 0.5 point was awarded when the technology is not always used by them.

Figure 12: Use of digital technology in courts and public prosecutor's offices.³⁸⁴

The next new element in the scoreboard is the availability of secure electronic communication for communication between courts and with the legal professions. The advantage of this option is that it saves time and costs and reduces the length of proceedings by reducing paper-based and in-person communication. According to the data, Hungary is one of the 15 Mem-

³⁸⁴ Source: 2021 results table, p. 44, Figure 41.

https://commission.europa.eu/document/download/84aa3726-82d7-4401-98c1-fee04a7d-2dd6_en?filename=2024%20EU%20Justice%20Scoreboard.pdf&prefLang=hu Downloaded: 6 September 2024.

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

ber States where electronic communication is available between courts and with professional bodies (notaries, bailiffs, the prison service, lawyers).³⁸⁵

The scoreboard also examines the possibility of carrying out individual steps of court proceedings electronically within the scope of online access to courts, as illustrated in the figure below.

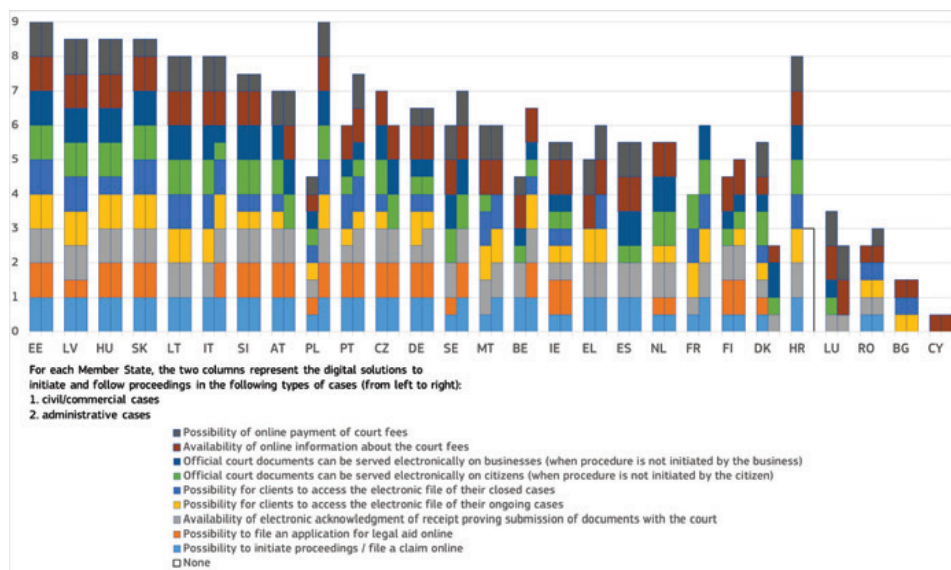


Figure 13: Digital solutions for initiating and tracking proceedings in civil/commercial and administrative matters.³⁸⁶

Hungary is effectively in the ‘top three’ here, as all nine digital solutions examined (initiating proceedings online/submitting claims online; submitting applications for legal aid online; availability of an electronic acknowledgement of receipt confirming the submission of documents to the court; clients have access to the electronic case files of their ongoing and – in some cases – closed cases; official court documents can be served on citizens and businesses electronically even if they did not initiate the proceedings; the

385 2021 Scoreboard, p. 46, Figure 42.

386 Source: 2021 Scoreboard, p. 48, Figure 44, and the EU Justice Scoreboard 2024, p. 46, Figure 47. https://commission.europa.eu/document/download/84aa3726-82d7-4401-98c1-fee04a7d-2dd6_en?filename=2024%20EU%20Justice%20Scoreboard.pdf&prefLang=hu Downloaded: 6 September 2024.

online payment of court fees and the availability of related online information) are available. The ‘point deduction’ for our country was due to the lack of full access to documents in closed cases, which stems from the fact that the digitisation of court documents was carried out in a forward-looking system – not covering the previous period. These measures could lead to an increase in public confidence in the courts by reducing the costs and duration of proceedings, and in view of this, support for further development opportunities is justified.

The Commission continues to treat access to judgments as a priority and encourages the development of user-friendly search systems to improve access to judicial practice, which may also encourage their reuse and the emergence of modern legal innovations based on them.

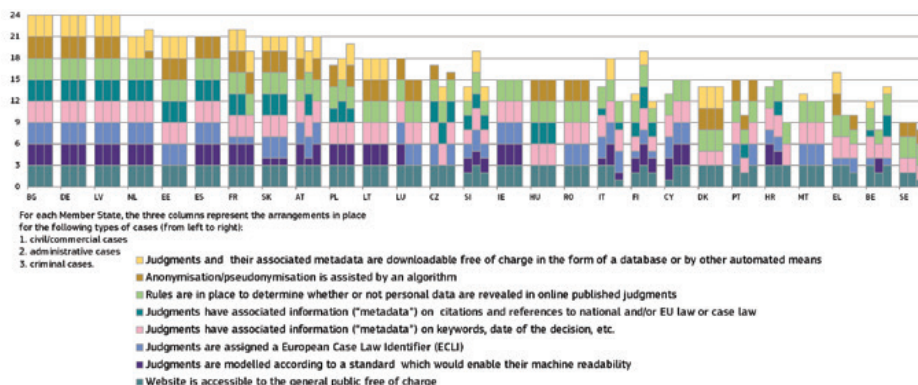


Figure 14: Organisation of the production of machine-readable court decisions³⁸⁷

With regard to online public access to published judgments³⁸⁸, Hungary remains at the forefront; similarly, there has been no change in the data concerning the organisation of the production of machine-readable court decisions: it is still not possible to download the decisions and their associated metadata in the form of a database; The European Case Law Identifier

³⁸⁷ Source: EU Justice Scoreboard 2024, p. 40, Figure 50.

https://commission.europa.eu/document/download/84aa3726-82d7-4401-98c1-fee04a7d-2dd6_en?filename=2024%20EU%20Justice%20Scoreboard.pdf&prefLang=hu Downloaded: 6 September 2024.

³⁸⁸ 2021 Scoreboard, pp. 50–51, Figure 46, and 2023 Scoreboard, p. 45, Figure 47.

(ECLI) has not been introduced; nor is it yet possible to make judgments machine-readable.

V.2.5. Expected directions and next steps in the digitalisation of the justice system

As outlined above, it is clear that strengthening the judicial systems of Member States and making them more efficient, resilient and accessible is a common goal. In early December 2023, the European Union took an important step in supporting the digitisation of judicial systems: the justice ministers of the Member States approved the e-Justice Strategy for the period 2024–2028, which sets out the principles and objectives of the developments, as well as the measures necessary to achieve them.³⁸⁹ They stated: “The aim of digitising the justice system is to facilitate and improve access to justice, to make the justice system more efficient and effective, whilst facilitating the work of legal professionals, and to bring the justice system closer to citizens, thereby offering better justice services for all” (point 4).

It was noted that the following strategic objectives set out in the previous e-Justice Strategy and Action Plan for the period 2019–2023³⁹⁰ remain valid: access to information relating to the field of justice; electronic communication between judicial authorities, citizens and legal professionals; and interoperability between judicial applications and domains.

In this context, the following objectives have been set for the coming period – with a view to accelerating digitalisation processes and the use of digital services in the field of justice: improving access to digital justice; to enhance digital judicial cooperation; to increase the efficiency of digital justice; to promote innovative digital justice (point 42).

389 The European e-Justice Strategy for 2024–2028
<https://data.consilium.europa.eu/doc/document/ST-15509-2023-INIT/hu/pdf> Downloaded:
 8 September 2024

390 The European e-Justice Action Plan for 2019–2023, Section I.2.
<https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=celex%3A52019XG0313%2802%29>
 Downloaded: 8 September 2024

Point 24 of the e-Justice Strategy sets out a significant aspect from a theoretical perspective: it emphasises that the digitisation of the justice system – amongst many other benefits – leads to a reduction in the costs associated with the justice system; however, adequate financial resources are required for its development. It was stipulated that access to adequate funding should be facilitated at EU level to ensure the implementation of these measures. In this context, it should also be noted that the majority of domestic developments carried out in the 2010s were funded using EU resources (EKOP and KÖFOP), which greatly facilitated the implementation of significant processes affecting multiple systems. It can be stated that the utilisation of new technologies that have come to the fore in recent times (e.g. the use of artificial intelligence, blockchain) is resource-intensive, and due to their innovative nature, it will certainly require the involvement of external resources, which must be financed. One of the operating principles defined in the strategy, dynamic justice, requires flexibility and adaptation to the constantly changing needs of society (point II.B.d.); consequently, its implementation and the building of more resilient and responsive systems naturally require significant resources. In addition to drawing up the strategy, setting objectives and defining the resulting tasks, it is also essential to resolve the issue of funding, in which the European Union must take the lead, as it has itself stipulated, and make access to resources available to all Member States in order to achieve common goals.

The strategy sets out the fundamental and operational principles of the digitalisation of justice. The fundamental principles mentioned include respect for fundamental rights and principles, access to justice, a people-centred approach, bridging the digital divide, promoting users' digital autonomy and sustainability (Section II.A), whilst the operational principles highlighted include the 'once-only' data provision principle, the 'digital-by-default' approach, a focus on interoperability and cybersecurity, dynamic and data-driven justice, and open-source software (Section II.B).

Among these, it is worth noting that, under the 'digital by default' approach, future developments must transform the justice system into a digital service, whilst also maintaining non-digital solutions. It is interesting to note that this is envisaged in order to ensure effective judicial protection

and access to justice for disadvantaged groups less affected by digitalisation (point II.B.b.), but in my view, this is also necessary – bearing in mind the energy resource requirements for operating digitalisation developments – due to the energy crisis experienced in recent times.

As regards the specifics, several areas for development have been highlighted in relation to future directions, including, for example, the need to develop videoconferencing systems, taking into account the requirements of cross-border judicial cooperation and bearing in mind the need for interoperability (points 58 and 59); real-time interpreting using artificial intelligence (point 60), the use of transcription tools for recording proceedings and evidence gathered by the court, and the potential for process automation using robots and the application of online dispute resolution tools (point 63).

Looking to the future, an important observation in the context of the strategy is that it is appropriate to reconsider the issue of providing personal assistance to citizens in relation to physical presence, as well as court proceedings that require physical presence in their entirety, and that digital channels should be utilised more widely. At the same time, they also emphasise that in-person attendance cannot be completely dispensed with (point 66), a finding with which I myself agree.³⁹¹ In the context of domestic development plans, it is worth noting that the following areas of application for artificial intelligence in innovative digital justice can be identified: the anonymisation and pseudonymisation of court decisions; transcription tools for recording proceedings and documenting evidence gathered by the court (speech recognition and text-to-speech); translation; legal analysis of case law and big data sources; calculation of compensation entitlements (for example, in the case of passenger rights).

In order to capitalise on experience and share ‘best practices’, a tracking mechanism for evaluation, accessible to Member States, will be established; monitoring and thorough analysis of this will be essential in the context of domestic developments.

The Regulation on the digitisation of cross-border judicial cooperation and access to justice, adopted a few days after the adoption of the e-Justice

391 For further details, see Section IV.5 of the monograph.

Strategy (17 November 2023) and applicable from 1 May 2025,³⁹² and the accompanying Directive³⁹³ aimed to improve the efficiency and accessibility of a more digitised justice system and is expected to facilitate electronic communication in the context of cross-border judicial cooperation procedures in court cases.

The main objective of the Regulation is to digitise existing communication channels, thereby achieving cost and time savings, a reduction in administrative burdens and improved resilience to force majeure for those involved in cross-border judicial cooperation [(4) recital]. First and foremost, a European electronic access point will be established on the European e-Justice Portal, enabling citizens and their legal representatives to communicate with authorities during cross-border proceedings via (for example, for the purpose of lodging claims and sending and receiving relevant information). Furthermore, authorities will not only be able to communicate with one another via secure and reliable digital channels, but will also be able to exchange data relating to cases.

It sets out rules on electronic communication in the context of cross-border judicial cooperation, covering the participation of parties and other interested persons in oral hearings in court proceedings via videoconferencing or other telecommunications technology, electronic communication between natural or legal persons and their legal representatives and the competent authorities, the recognition of documents bearing an electronic signature or stamp, and the payment of fees by electronic means.

The related Directive, which Member States are required to transpose into their national law – as it sets out amendments to rules already transposed into the national legal systems of the Member States – aims to ensure that cross-border communication between authorities takes place in accordance with the rules and principles set out in Regulation (EU) 2023/2844.

392 Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain legal acts in the field of judicial cooperation.

393 Directive (EU) 2023/2843 of the European Parliament and of the Council of 13 December 2023 Directives 2011/99/EU and 2014/41/EU of the European Parliament and of the Council, Council Directive 2003/8/EC, and Decisions 2002/584/JHA, 2003/577/JHA, 2005/214/JHA, Council Framework Decisions 2006/783/JHA, 2008/909/JHA, 2008/947/JHA, 2009/829/JHA and 2009/948/JHA with regard to the digitisation of judicial cooperation.

V.3. Summary: the impact of digital developments as reflected in the EU Justice Scoreboard

The Scoreboard, which has been published 12 times to date, provides a comprehensive overview of the Member States' judicial systems; in this monograph, in line with the subject matter, I have primarily examined issues relating to the use of digital tools. It is evident that, encouraged by the European Union and within the framework it has established, Member States are constantly striving to develop their judicial systems in line with its priorities.

It is perhaps no exaggeration to say that, as a result of recent developments – particularly the Digital Project detailed in Chapter III – Hungarian courts remain at the forefront of Europe in terms of digitalisation, with Hungary typically ranking in the top third of the EU scoreboard. The data clearly reflect the development and expansion of electronic communication, the widespread accessibility of judgments, and the fact that, in a wider range of Member States than before, digital technologies are being applied in court proceedings, which contributes significantly to the effective enforcement and fulfilment of rights and obligations in litigation.

It is also clear that the Covid-19 pandemic accelerated digitalisation processes; the conditions for online communication and remote working had to be established rapidly, and their positive impact has persisted into the subsequent period. The findings of the 2021 scorecard clearly showed that the work of courts, which continued to operate throughout the pandemic, has generally become more accessible and efficient.³⁹⁴ Domestic experience shows that the developments put in place at the very start of the pandemic ensured the courts could continue to operate, and even made it possible to establish a new legal institution: the simplified electronic attendance introduced during this period,³⁹⁵ now incorporated into the Code of Civil Procedure, allows hearings to be conducted using telecommunications equipment available to the person to be heard.³⁹⁶

394 Viktória Lilla PATÓ: The digital maturity of Hungary's justice system: lessons from the indicators of the 2021 EU Justice Scoreboard. In: Nikoletta Dóra Bagi – Viktória Lilla Pató – Laura Schmidt – Bettina Tóth (eds.): *EUSTRAT Working Papers* 2021, First Half-Year, Ludovika University Press. Budapest, 2022. p. 64.

395 Veir 1, Section 21(3).

396 See further in section III.4.2.3.3 of the monograph.

Nevertheless, in line with the amendment to the Fundamental Law³⁹⁷ and the related legislation,³⁹⁸ as well as the European Union's renewed e-justice strategy, further developments are likely to become indispensable in addition to the results achieved so far. It is clear that the international digitalisation solutions and methods outlined here can further facilitate access to justice, even across borders.

It is also clear that the Covid-19 pandemic has accelerated digitisation processes; the conditions for online communication and remote working had to be established rapidly, and their positive impact has persisted into the subsequent period. In view of all this, it can be concluded that there is no doubt that the digitalisation of the justice system and the integration of new technologies must continue, both to ensure the functioning and resilience of Member States' systems and to promote more effective cross-border judicial cooperation.

Furthermore, the information contained in the EU Justice Scoreboard contributes to monitoring carried out under the European Semester and the Rule of Law Cycle, and is also incorporated into the Commission's annual Rule of Law Report.³⁹⁹

397 The twelfth amendment to the Fundamental Law of Hungary.

398 For example, the DAP Act.

399 For example: The 2022 Rule of Law Report, p. 11.

https://commission.europa.eu/publications/2022-rule-law-report-communication-and-country-chapters_en?prefLang=hu Downloaded: 8 September 2024.

VI. An empirical analysis of experiences with the digitisation of the judiciary from a judicial perspective

Over the twenty-five years since the initial steps towards digitisation in the late 1990s and early 2000s, a vast amount of knowledge and experience has accumulated within the judicial system. In addition to legislative changes, it has been necessary to keep pace with technological developments, adapt to the digital achievements resulting from these developments, and master their use. In view of all this, it is appropriate to assess the lessons learned from experience to date, with the participation of those skilled in the use of tools and systems, in the hope that we may also draw conclusions regarding future directions.

Internationally, the use of questionnaire-based methodology is playing an increasingly significant role in legal research – although this is not yet widespread in domestic research. This approach enables researchers to collect empirical data on the social impacts of legal phenomena, the practical aspects of law enforcement, and the level of legal awareness and knowledge. This approach has enabled a deeper understanding of the interactions between law and society, as well as a more comprehensive analysis of the functioning of the legal system.

When compiling the questionnaire, I took a number of factors into account to ensure that the research results were reliable and valid. I tailored the questions in the questionnaire to the research objective. This helped to ensure that the questions truly focused on the issue under investigation. The questions were a mix of open-ended and closed-ended types to ensure that the results defined in the research objective could be obtained as broadly as possible. In formulating the questions, I endeavoured to adhere to the requirements of clarity and neutrality. In determining the number of questions in the questionnaire, I primarily took optimisation considerations into

account, ensuring that the questionnaire remained sufficiently in-depth to understand the information underlying the responses, whilst ensuring that its length did not reduce respondents' willingness to answer or the quality of their responses. Before finalising the questionnaire, I conducted a 'pilot' test on a small sample to identify any errors or ambiguous wording. Naturally, throughout the research I adhered to data protection regulations and ensured the anonymity of participants, whilst also taking into account other ethical considerations that arose. I would like to emphasise here that, to my knowledge, no research has yet been conducted within the judicial organisation on this topic using the method employed here, nor have the results of such research been published.

VI.1. Sample

In the questionnaire-based research, I sought to obtain primary research findings that would facilitate an objective analysis of the subject matter of the monograph through the application of social science methods. I designed the questionnaire in an inductive manner, though in formulating the questions I had already synthesised the insights gained from previous academic works. With regard to the sampling – bearing in mind that I also examined the Supreme Court in Chapter IV of the monograph – I invited judges working at the Supreme Court who are experienced in civil law cases. Within the scope of this paper, I did not undertake a nationwide survey, but conducted my research within the framework provided by the rules, focusing on a target group that effectively covered national experience. A significant proportion of the judges serving at the Supreme Court previously served in lower-level courts (district courts, regional courts, courts of appeal), so their knowledge and expertise regarding proceedings at other court levels is also extensive.⁴⁰⁰

I was granted permission to conduct the research on condition of anonymity. In determining the sample, I considered it important that no stakeholders from outside the judicial system should be included in the research

400 For the reasons behind the Supreme Court's closer scrutiny, see section I.2.

– whilst their views would have been useful for a holistic examination of the topic, the scope of the study had to be narrowed in order to adhere to the content framework of the paper.

VI.2. Statistical data and the results of the questionnaire survey

The questionnaire was available to complete online between 8 March and 15 April 2024 and contained a total of twenty-nine questions (Appendix 1). Prior to the ‘live’ version of the questionnaire, a ‘pilot’ version was open for one week to identify and address any potential errors and to gather feedback. The structure of the questionnaire primarily examines the IT background and area of specialisation of the respondent (judge). In the second section, I posed quantitative questions regarding the digitisation of the courts, IT and artificial intelligence, using a Likert scale. In the third section, I asked qualitative questions relating to the topic. Naturally, there was also an opportunity to provide additional comments at the end of the questionnaire. Completing the questionnaire was entirely anonymous, and when evaluating the responses, I took particular care to ensure that any personal data or other information that might appear in them, and which could be used to identify the respondent, was anonymised. I analysed the results of the questionnaire partly using statistical methods and partly through qualitative text analysis. A total of thirty judges working at the Supreme Court and with experience in civil law cases completed the questionnaire, which can be considered a representative sample, as the Supreme Court had 88 judges actively working at that time – that is, not exempt from work due to retirement – and there were 88 judges and subordinate judges.⁴⁰¹

I shall present the responses to the questionnaire below, summarising their results. I also consider it important to note that, in order to interpret the responses accurately, I subsequently conducted semi-structured in-depth interviews, in which I sought to draw further deductive conclusions to ensure a comprehensive and correct interpretation of the responses. I

401 Of these, 33 were criminal judges not belonging to the target group during this period.

present the results of the in-depth interviews, the summary findings and the conclusions in a later section of the monograph.

I consider it important to note that 83.3% of the judges who completed the questionnaire stated that they did not have any IT qualifications or professional certification, whilst only 16.7% did. This must certainly be taken into account when evaluating the responses. It should also be noted that an important aspect of the use of digital tools within the judicial system is that those involved receive appropriate training.

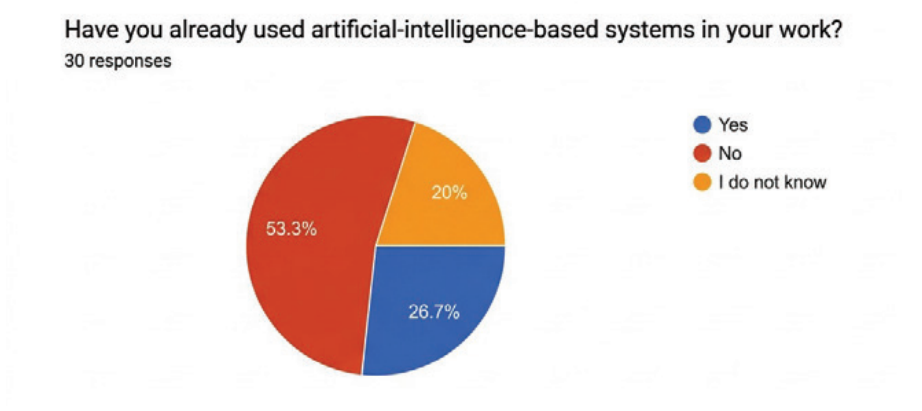


Figure 15 (own compilation)

In the questionnaire – in order to map out the future direction of digitalisation developments – I also asked what proportion of respondents had already used systems based on artificial intelligence. As can be clearly seen in the figure above, according to the responses, the majority had not (53.3%), a smaller proportion had (26.7%), and the proportion of those who did not know whether they had used such a system is also noteworthy (20%). Given that some of the systems used within the judicial system (e.g. BHGY) utilise artificial intelligence, the high proportion of ‘no’ responses – more than half of the respondents – indicates that awareness levels in this group need to be raised through dissemination tools.

Would you find it useful if, with IT solutions using artificial intelligence, court software prepared draft decisions or orders in simple cases?

30 responses

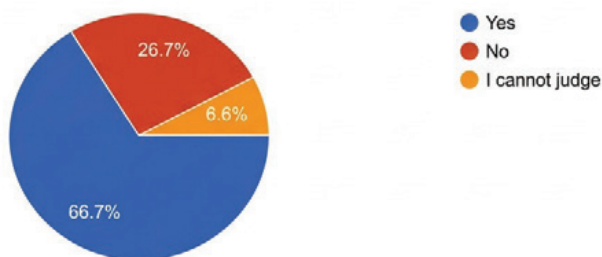


Figure 16 (own compilation)

The figure above is noteworthy in the prospective examination of the future use of artificial intelligence; it perfectly illustrates that the majority of respondents see very significant potential in its application, a view which was also confirmed by the answers to the qualitative questions.

When examining the general objective of court digitisation, respondents highlighted the following aspects. Increasing efficiency: the aim of digitisation is to reduce the need for human labour in processes where this is possible and to speed up procedures that do not require specialist knowledge. This creates a more efficient court system, reduces administrative burdens and bureaucracy. Furthermore, it ensures faster case handling. By speeding up procedures, making decisions more well-founded and updating databases, court administration becomes simpler and faster. The introduction of electronic case management and the replacement of paper-based communication also contribute to this. Facilitating access to the courts, simplifying communication with clients and speeding up communication are cited as objectives in several responses. Ensuring electronic service of documents and remote access to files is also an important objective. The fourth most frequently cited objective is cost-effectiveness. Digitalisation leads to cost reductions, for example in postage costs and human resources. Making administrative procedures faster, more accurate and simpler results in time and cost savings for all parties involved.

I asked what benefits the digital transition might bring for the courts. Of the responses received, the following are worth highlighting. Increased efficiency: digitisation reduces the need for human labour, costs and time, resulting in faster and higher-quality work. Simplifying administrative processes and using electronic case management shortens procedural deadlines. Easier access to and searchability of electronic documents improves the transparency of judicial proceedings. Replacing paper-based communication with electronic data management leads to cost savings. In addition to this, the majority of respondents also noted that the benefits of the new electronic developments were particularly evident during the pandemic, when – during a period involving reduced face-to-face contact – cases could be dealt with in a timely manner through the availability of e-files and Skype, which ensures secure verbal communication.

In connection with this issue, I would like to mention a group of responses that have emerged from various quarters. It can be said that the possibilities for using digitalisation achievements in the administration of justice are wide-ranging; opinions differ mainly on the extent to which these – particularly artificial intelligence – can actually be used in judicial work. The extreme positions in the debate are those views which, on the one hand, question the very notion of the necessity of a ‘human court’, and on the other hand, hold that human intelligence is required for any judicial decision affecting the interests of the parties to a dispute. We must examine how traditional legal skills and knowledge can be utilised so that systems powered by artificial intelligence can serve as productive assistants (or participants) in court proceedings. It can be used in numerous areas: document search, review, automated online dispute resolution, predicting the outcome of litigation, decision support, decision-making, anonymisation, case allocation, workflow automation, natural language processing, and information/support services. Judges have electronic access to case files. Judges have access to the Judgment Support System (ITR), where case files can be accessed securely following token-based authentication; in addition, the system provides a document template library, a court word processor and officially certified registers to facilitate their work. During the pandemic, the nationwide remote hearing system established under the Via Video project proved helpful; one of its key advantages is the reduction in the time and costs as-

sociated with clients appearing in court. Based on the operation of the current system, it can be stated that the remote hearing system contributes in the long term to improving the timeliness indicators of court proceedings and increasing the transparency of proceedings. Furthermore, in criminal cases, the security risks associated with the transport of detainees can be significantly reduced, and the safety of persons entitled to protection can be guaranteed. Council meetings – as tested and proven during the pandemic – can be held using telecommunications tools without the need for face-to-face meetings where necessary; decisions can be drafted to a high standard, enabling cases to be concluded in a timely manner.

For court clients, digitisation can bring the following benefits. By speeding up proceedings and simplifying administrative processes, case management becomes more efficient. Electronic access to documents allows clients to access the necessary documents remotely. Replacing paper-based communication reduces costs and paper consumption. Electronic systems facilitate faster and more accurate access to information, which increases client satisfaction.

Regarding the skills and training judges require in a digital environment, based on the findings of the questionnaire, it is clear that judges need to master the practical use of court IT applications and maintain their skills at a consistent level. It is important to hold regular training sessions on data security and data protection. Judges require ongoing training to keep pace with technological developments. Furthermore, a deeper understanding of the use of court systems and legal databases is essential.

Digitalisation also plays an important role in judicial decision-making. The most important findings of the questionnaire in this regard are as follows. Digitalisation enables judges to access relevant legal decisions, legislation and other legal sources quickly and easily. Case management and proceedings become faster, as digital tools assist in decision-making and the drafting of judgments. It supports the application of a limited case law system, as judges can access previous rulings more easily. Digital systems facilitate communication with colleagues and improve the efficiency of workflows.



Figure 17: Word cloud based on the research (own compilation)

Finally, I created a word cloud⁴⁰² for the research. In the final question, I asked respondents to list, separated by commas, the words that first came to mind in relation to the digitisation of the courts and artificial intelligence. The word cloud shown above was created based on the frequency of occurrence of these words. The more times a particular word appeared in the responses, the larger it appears in the diagram.

The word cloud essentially serves the purpose of visually emphasising or highlighting something or even conveying a message quickly. Based on this – and in line with the responses to the questionnaires – the resulting word cloud clearly shows that the digitisation of the courts and artificial intelligence are primarily seen as aids in the context of the courts⁴⁰³, in connection with which their emergence during the development process, i.e. in the appropriate evolutionary order and through adaptation, is emphasised. The

402 For a detailed scientific approach to the method of word analysis, see: Nándor BIRHER: *Value-based (public) administration*. Károli Gáspár Reformed University, L'Harmattan Publishing House. Budapest, 2021. pp. 137–181.

403 In a Swedish study on a similar topic published in 2025, participants identified flexibility as the greatest benefit of digitalisation – based on the word cloud – whilst the words efficiency and availability also stand out; see: KRONBLAD, p. 8.

importance of the human factor is highlighted, taking precedence over automation. Furthermore, respondents also emphasised the dangers and risks associated with digitalisation, which must be borne in mind at all times as progress is made.

VI.3. In-depth interviews and findings

In researching this topic, I considered semi-structured face-to-face interviews to be the most appropriate qualitative method. This method combines the characteristics of structured and unstructured interviews; that is, alongside pre-determined questions and topics, it allows the researcher to ask further questions related to the topic based on the interviewee's responses, thus enabling a deeper and more detailed examination of the research subject.

My aim was for the face-to-face interviews – through the direct sharing of the participants' own experiences and insights on the subject – to facilitate the interpretation of the questionnaire survey results. During the research, in the first half of 2024, following the completion of the questionnaire-based research, I conducted four in-depth interviews. The main criterion for selecting interviewees – in line with the choice of topic – was the existence of long-term civil and commercial judicial practice and proficiency in the use of digital tools. I attached importance to longer judicial experience – exceeding ten years – because this ensured that the interviewee had followed the entire process of court digitalisation to date in practice and possessed direct experience and in-depth knowledge of it. As I concluded from the questionnaire-based research that practical experience gained through the use of court digitisation achievements – including first-instance adjudication – could be significant, I endeavoured to ensure that the interviewees came from different age groups. Furthermore, based on the questionnaire-based research, I also considered it important to include both those with IT skills and those with less experience in this area: since all judges are required to use the tools of court digitalisation without distinction, I assumed that this would enable me to obtain relevant information from a broader spectrum of users.

All interviewees were civil judges with over ten years' judicial experience; two of them were also well-versed in commercial law, and all had adjudicated at least two levels of court, with one having done so at all four levels. I asked the questions (Appendix 2) during 45- to 60-minute, semi-structured interviews.

Regarding their experiences with the digitisation of the courts, every judge interviewed emphasised that they had witnessed the progress of the process continuously, practically on a day-to-day basis, during their daily work, and that the court system had also endeavoured to keep pace with technological developments. Two interviewees also mentioned that they did not have a computer at the start of their careers, and that the electronic registration of cases and access to digital legal databases were the point at which they first experienced the tangible results of digitisation; they cited the introduction of electronic communication as the next milestone, followed by the remote, 24/7 accessibility of documents and court systems (e-files), and then the provision of mobile devices (laptops or tablets, at their discretion) to all judges. They unanimously emphasised that digitalisation marked a paradigm shift in the conduct of court proceedings, both in terms of the courts' internal processes and from the clients' perspective. In this regard, the interviewees stressed that case handling had been significantly accelerated; for example, it is no longer necessary to wait weeks for a return receipt to arrive; instead, proof of delivery appears immediately in the electronic system. Furthermore, the electronic method of submitting documents to a higher court also facilitates timely case management, thereby helping to bring proceedings to a quicker conclusion.

They particularly highlighted the development relating to the automation of the anonymisation of decisions, noting that it had significantly simplified the process: even the previous systems, which were far less modern than the current ones, were of great help, but the introduction of software capable of automatic anonymisation brought further significant relief. According to them, this has meant that – as the programme identifies the text passages to be removed and replaced – the potential for errors has been reduced, whilst time has also been saved.

It also emerged during the interviews that they consider it important to implement continuous improvements that are thoroughly thought through

and consistently carried out across the entire court organisation, partner authorities and clients alike, in which – drawing on their experience, in order to make the most of digital developments and a thorough knowledge of the law – judges and court staff who use the system are involved to the greatest possible extent. They pointed out that this participation is necessary not only during development and implementation, but also during operation, because regular user feedback helps to fine-tune the system, eliminate any errors and identify areas for improvement. Respondents saw the importance of continuity in the fact that – to quote one of them – “you cannot stop”: from the moment you embark on the path of digitalisation, you must respond constantly and with appropriate speed to the requirements of legislation and user needs, whilst also ensuring that obsolete equipment is replaced.

Five of those who completed the questionnaire, including two judges among the interviewees, identified as a challenge the fact that whilst the development itself requires IT expertise, during the process – given that the law and the functioning of the courts must effectively be ‘translated’ into the language of IT – the IT specialist and the lawyer, who is familiar with the governing rules, as well as case management, document handling and the operation of IT systems, must find a common language, as this is the only way to ensure the end result is an efficient, well-functioning system.

Respondents also noted that the development, operation and continuous improvement of such a system are very costly, requiring the involvement of additional resources beyond the court budget; in this context, they cited as examples the EKOP and KÖFOP projects implemented over the past decade using European Union funds in the field of court digitisation.

One interviewee, who possesses outstanding expertise in the field of the register of legal entities, also emphasised – based on their experience – that ‘isolated’ developments, i.e. those not covering the entire court organisation, must be avoided, as they do not serve the organisation’s overall purpose. He identified a related problem: within the court system, three different systems that do not communicate with one another (e.g. some systems handle litigation and non-litigation matters, liquidation and bankruptcy cases, on the other hand, company matters, and thirdly, civil registration matters) op-

erate side by side, which is explained by developments taking place at different times – and from different sources. Nor does it simplify the situation, he added, that, in addition to this, other systems within the justice system – though related to the courts in terms of content – are also completely different, such as the notaries' payment order system or the bailiffs' IT system.

In line with the respondents to the questionnaire, all interviewees emphasised not only the timely conclusion of proceedings but also the aspect of procedural efficiency, both of which are facilitated by the benefits of digitalisation. According to the respondents, when operating ideally, these also help to ensure the effective enforcement of substantive law through easier access to legislation and judicial practice. Specific examples mentioned included remote, comprehensive electronic (e-file) access to case files (equivalent to paper-based files but available 24/7), the availability of secure communication via Skype, and the ability to find relevant decisions via the BHGY. In this context, they also unanimously emphasised that during the pandemic, in a period of crisis involving physical restrictions, these innovations were the key tools for accessing the courts. In this way, they added, not only was the 'physical' accessibility of the courts ensured, but the risk of proceedings being protracted was also reduced. Several respondents specifically mentioned the Skype application, through which court hearings could even be held. One respondent also suggested that – in relation to proceedings before the lower courts – more appropriate regulations were needed to address the situation of clients without access to digital tools.

Some questionnaire respondents and one interviewee also emphasised that the court system is conservative, moves relatively slowly, and 'finds it difficult to break out of its established framework' (even when it experiences tangible benefits, e.g. 'no need to carry files'); time is needed to implement developments and adapt to them in day-to-day practice. This is precisely why they attached importance to the developments completed shortly before the outbreak of the pandemic, the acceptance of which was greatly aided by the tangible evidence that judges, court staff and clients had adopted these tools in their daily work, and with their help, the court system was able to remain operational even in this unexpected situation. Consequently, this acceptance—fostered in part by the extraordinary circumstances—has

persisted, which, according to the interviewees' expectations, clearly promotes a positive attitude towards further digitalisation processes.

In line with the questionnaire respondents, all interviewees emphasised that the digital developments introduced over the past decade have increased the resilience of the court system and indeed form the basis of it. They stated that, thanks to these achievements, the organisation was able to maintain its operational capacity even during a pandemic—a situation no one could have foreseen—which minimised physical contact; furthermore, to their knowledge, the timeliness indicators, which can be demonstrated by figures, did not deteriorate either. Several of the questionnaire respondents highlighted that the appeal divisions were able to work continuously outside of court hearings during the pandemic restrictions, whilst the first-instance divisions also operated, albeit with certain restrictions, thanks to digitalisation.

They pointed out that in an unpredictable future, similar situations—where personal contact is avoided and which are currently difficult to imagine—may still arise, in which this tried-and-tested 'flexible response' could play a significant role. Two of the interviewees also referred to the dangers of systems operating exclusively digitally, the resulting vulnerability and exposure, emphasising that in the event of a power cut or IT problem, access could become impossible – at least temporarily – and that, in view of this, it is worth maintaining the 'paper-based' nature of the procedure in the majority of cases.

Three questionnaire respondents and two interviewees also stated that the digital system must be sufficiently flexible through continuous development, because rapid changes in the world also bring about rapid changes in legislation, so the court system must keep track of this – whilst remaining constantly prepared; in other words, flexibility and forward thinking are fundamental requirements. One interviewee also drew attention to the fact that if the judicial system does not respond with sufficient flexibility to new challenges, certain proceedings currently falling within the court's jurisdiction may come under the jurisdiction of another body, thereby potentially diminishing the court's role.

A difficulty that emerged during the interviews and from the questionnaire respondents was the complexity of searching the BHGY database, which is crucial for accessing judicial practice, particularly Supreme Court precedent decisions; they recommended improving this in the interests of the legal research community and considered it worthwhile to explore the better application of artificial intelligence in this area.

In addition, two of the interviewees mentioned the need to modernise the case management and document management system in connection with digital developments, which, in their view, should be adapted to the changed working methods, taking into account the changes in the human resources, knowledge and skills required for the work.

With regard to future developments, the interviewees raised, on the one hand, the modernisation of existing court systems and, on the other, the integration of new technologies and developments into the court organisation, such as the more effective incorporation of artificial intelligence into the operation of search systems, ChatGPT, translation software, and more advanced speech recognition and transcription software. It is noteworthy that the further development of search systems was raised in connection with precedent-setting decisions (the published decisions of the Supreme Court), with a view to ensuring that the Supreme Court fulfils its role in harmonising the law as effectively as possible.

When I asked the interviewees about the potential replacement of the work of judges and judicial staff, the responses were unanimous in that digital developments are primarily useful in supporting the adjudication process; they cannot replace the judge's interpretative, deliberative and synthesising work. One interviewee – who, incidentally, had the longest period of judicial practice – considered any replacement of judicial work to be completely out of the question. He noted that 'artificial intelligence cannot interpret legislation', as it works solely on the basis of data and information already available.

According to the interviewees' responses, they consider these tools useful in the areas of background work and decision preparation; they specifically mentioned the retrieval of relevant legislation, judicial practice and precedent decisions, as well as the preparation of draft rulings containing data

already entered into the BIIR system, which are simpler and do not require deliberation (e.g. determining legal succession), and the preparation of draft orders containing data already entered into the BIIR system.

The interviewees also noted that, with the help of one of the applications from the Digital Court project, which concluded in 2019, drafts of simpler, frequently occurring decisions can already be prepared, but further development of this would be necessary.

However, they all agreed that there is scope for digital technology in routine tasks, such as text recognition and speech-to-text applications. Two interviewees with administrative experience also highlighted that the court system can respond more easily and flexibly to changes in the labour market if it has a ‘diversified approach’ in this way and possesses practical experience in the deployment of digital technologies.

VI. 3.1. Findings from the in-depth interviews

Based on the in-depth interviews, I found that all interviewees view digitalisation achievements positively, as tools that assist their work. They unanimously perceived their impact primarily in the acceleration of work processes, which supports both the timely and high-quality handling of cases. However, they categorically rejected the possibility of “automated decision-making”.

It was noted that, in connection with the developments, several respondents mentioned flexibility, from which it follows that both the relevant legislation and digital tools must be capable of operating under changing circumstances. A good example cited was that operational capability could be maintained even under pandemic restrictions, from which I concluded that the courts as an institution were, in fact, put to the test during this extraordinary period: the fact that judges were able to fulfil their constitutional duties even under these exceptional circumstances is of extraordinary significance in terms of public confidence in the courts.

Finally, the interviewees also highlighted the crucial point that digital developments in the courts can only be successfully implemented with the

participation of judges and judicial staff who have experience in the relevant field and are well acquainted with the processes, which, in my view, plays a fundamental role in the acceptance of digital innovations. This also highlights the challenge of how lawyers, who generally lack IT training, and the IT specialists carrying out the developments can understand one another, communicate effectively, establish some sort of shared context and common language, and translate the terminology of IT into the language of law.⁴⁰⁴

404 For a discussion of this issue, see: Tamás GYEKICZKY: 'The Legal System and Lawyers in the Digital Society'. *Eljárásjogi Szemle*, 2018/2, p. 3: 'Looking at recent legislative developments, a previously unheard-of terminology is increasingly coming to the fore: the conceptual framework of information technology. Its most striking use is in the rules governing electronic communication between clients and the courts (authorities) – the term itself is incorrect and misleading – but it has become routine in legislation concerning documents, company procedures and electronic signatures. Legislation has 'incorporated' IT terminology, thereby overturning the centuries-old tradition of legal definitions – the immanent logical order of legal conceptualisation. It did not merely break with this tradition, but transplanted its axioms into a domain outside the law, risking that a technical shift or a change in process (e.g. a new security definition) might, from the outset, transform elements of knowledge belonging to IT thinking into law. A major question for the future is to what extent the conceptual constants that ensure the security of the law's operation will be replaced by panels belonging to digital IT thinking, and what consistency problems the mass emergence of these external panels will cause.'

VII. Summary

VII.1. Assessment of the first hypothesis

First hypothesis

Digitalisation initiatives in the courts enhance their resilience, which also has an impact on the framework for conducting civil proceedings. Furthermore, they help to ensure the conditions necessary for the courts to deliver high-quality judgments.

The first hypothesis was supported by indicators from international performance tables, as well as data revealed through questionnaire-based research and in-depth interviews. It is a fact that digital developments in the justice system have accelerated since the mid-2010s (e.g. the possibility, and subsequently the obligation, of electronic communication; the first steps towards the development of e-files with the development of the BETFR system; remote hearings), followed by the procurement of innovative tools and office software packages (2018)⁴⁰⁵ and the establishment of the e-file and the KKSZB connection⁴⁰⁶ by the end of 2019 – as if the necessity for it had been foreseen due to an extraordinary situation – the digital court was effectively realised, providing comprehensive, remote access to court case documents for both clients and judges.

Until now, there have been serious debates about the extent to which digitisation should be allowed, particularly in litigation, as this deeply affects the principle of immediacy.⁴⁰⁷ Academic thinking on this subject was previously rather sceptical,⁴⁰⁸ but with the emergence of examples of online courts abroad⁴⁰⁹ and the recognition of the inevitability of this path of de-

405 See section VI.3.6 for further details.

406 For further details, see section VI.3.4.

407 For dilemmas related to this, see: GYARMATHY 2023, op. cit., pp. 171–198, and UDVARY 2023.

408 See: HORVÁTH E. Írisz: E-hearings in civil litigation. E-hearings and the fundamental principles of civil procedural law. *Infocommunication and Law*, 2009/6, pp. 227–232; HORVÁTH E. Írisz: E-hearings in civil litigation. E-trials and European Legislation. *Infocommunication and Law*, 2010/4, pp. 126–128.

409 SUSSKIND, Richard: *Online Courts and the Future of Justice*. Oxford University Press 2019. (hereinafter: SUSSKIND) pp. 165–176; Hungarian edition: SUSSKIND, Richard: *Online Courts and the Future of Justice*. Orac. Budapest, 2023. (trans. András Osztovits).

velopment, attention has shifted towards the enforcement of fundamental principles.⁴¹⁰ In addition – primarily in connection with the pandemic situation – the issue of equal access to justice and the protection of the ‘weaker party’⁴¹¹ arose, with a particular focus on vulnerable groups,⁴¹² and especially children.⁴¹³ Reinforcing the latter point, the research highlighted that – particularly in the context of proceedings before lower courts – more appropriate regulation is needed to address the situation of clients who do not have access to digital tools.

The applicability and use of the achievements of digitalisation thus – as the developments had been completed just before the pandemic – came to the fore particularly during this extraordinary period, and as a result, their use also became widespread and part of everyday life. As maintaining the functioning of the justice system was of key importance, judges – and, to an increasingly greater extent, judicial staff – were able to use the e-file, the KKSZB connection, and Teams (previously: Skype)⁴¹⁴ for secure communication with one another on the mobile devices made available to them during their daily work whilst ‘working from home’, a practice that was very common during this period, mostly laptops, to access e-files, connect to the KKSZB system, use Teams (previously: Skype) for secure communication with one another, and also access the BHGY and electronic legal databases. There is also a wealth of data showing that during the pandemic, there was a significant increase in the number of people registering with and requesting notifications from the BETFR system⁴¹⁵, and that clients actively began using the ÜIR and LIR systems⁴¹⁶.

410 András OSZTOVITS: Online Courts and the Right to Justice – Opportunity or Threat? *Magyar Jog*, 2020/11, pp. 625–632.

411 Anna NYILAS – László PRIBULA: The protection of the ‘weaker party’ in the new Code of Civil Procedure. In: Veronika Szikora – Zsuzsanna Árva (eds.): *Redesign. Consumer regulation models, digitalisation, data protection*. University of Debrecen, Faculty of Law and Political Science. Debrecen, 2019. pp. 197–230.

412 VÁRADI, op. cit., pp. 5–18; SUSSKIND, op. cit., pp. 218–221; CHUNDUR, Suguna: Digital Justice: Reflections on a community-based research project (translated by the author). *The Journal of Community Informatics*, 2020/12, pp. 118–140.

413 Ágnes SZÉL Napsugár: *Child-centred justice in the light of European and Hungarian legislation*. PhD thesis, Károli Gáspár University of the Reformed Church, Doctoral School of Political Science and Law. Budapest, 2023. pp. 121–128.

414 Recently, Teams has been used, due to the discontinuation of Skype.

415 For data, see: Section IV.5.1.

416 For data, see: Section IV.5.2.

Based on the responses to the questions posed in the questionnaire survey and during the interviews, it can be stated that this emergency situation facilitated and accelerated the implementation process of digitalisation achievements. We can rightly assume that, without this compelling situation, their adoption and the learning of how to use them would have been the result of a slower process.

The legal literature has also raised the issue of the subsequent utilisation of new institutions introduced out of necessity during the pandemic but which have had a positive impact.⁴¹⁷ The concrete impact of this period on civil procedure law, as manifested in legislation, is the codification of simplified telecommunications attendance within the rules governing the use of electronic communications networks.⁴¹⁸ Just a few years ago, it would have been unimaginable for certain parties to the proceedings to join a Skype conference, for example, via their own mobile phones, in order to be heard as witnesses. Obviously, if the court deems the witness's personal presence to be absolutely necessary, it will not permit this method of communication, but the introduction of this legal mechanism for 'normal' periods outside of exceptional circumstances certainly reflects the change brought about by the positive experiences gained in the application of digital innovations.

It is also clear that digital developments help to ensure the material conditions essential for the high-quality adjudication of the courts: portable digital devices available to judges, online e-files accessible regardless of time and place, an electronic legal database containing legislation, judgments, commentaries and specialist articles, and the BHGY, which is most helpful for locating the Supreme Court's published decisions. These were essential to ensuring the continuous operation of the courts; it can therefore be stated that they increased the resilience of the judicial system, as it remained operational even during the pandemic, thereby preventing significant delays in cases.

417 László PRIBULA: The temporal dimension of civil litigation in the light of the legal use of digital technologies. In: Zsolt Zódi (ed.): *Legal technologies. Digital law enforcement*. Ludovika University Press. Budapest, 2022. (hereinafter: PRIBULA), p. 325.

418 For details, see: Section III.4.2.2.3.

VII.2. Assessment of the second hypothesis

Second hypothesis

The solutions implemented so far in the digitisation of the courts help to ensure the effectiveness of litigation, as enshrined in the Code of Civil Procedure at both a fundamental and systemic level.

My research has also confirmed the second hypothesis, as the facts supporting this are unequivocally verified by the findings of the judicial performance table.⁴¹⁹ Those interviewed during the research unanimously highlighted not only the timely conclusion of cases but also the aspect of litigation efficiency, both of which were promoted by the achievements of digitalisation, and this was also reflected in the statistical data from the pandemic period. It is also clear that, in ‘normal times’ and under ideal operating conditions, they likewise facilitate the effective enforcement of substantive law through easier access to legislation and judicial practice.⁴²⁰ Specific examples of this include remote, comprehensive electronic (e-file) access to court documents (identical to the paper-based version but available 24 hours a day), secure communication via Skype, the possibility of remote hearings, and access to relevant decisions via the BHGY.

⁴¹⁹ See: Chapter V of the monograph.

⁴²⁰ PRIBULA, op. cit., pp. 303–327: László Pribula’s study examines procedural rules and judicial practice with regard to the temporal dimensions of litigation, observing how digital technologies can be utilised to address emerging problems and improve access to the courts.

VII.3. Assessment of the third hypothesis

Third hypothesis

If the findings of the first and second hypotheses are confirmed, further development of digitalisation achievements is necessary to maintain them.

In relation to the questions posed concerning the third hypothesis, several questionnaire respondents and interviewees also considered the need for continuous development to be particularly justified, noting that such developments must be sufficiently ‘flexible’. The rapid changes in the world around us also bring about rapid changes in technology and legislation, so the judicial system must keep pace with these developments – whilst remaining constantly prepared; in other words, flexibility and forward thinking are fundamental requirements. Based on the findings of the research, it can be concluded that future developments must be carried out with the involvement of staff (judges and judicial staff) who possess sufficient experience in procedural law and the functioning of the court system, in order to ensure that the knowledge gained is put to good use. In my view, resilience also encompasses the fact that public confidence in the judicial system – strengthened by a swift and flexible response to change – is a crucial prerequisite for ensuring that the role of the courts does not diminish in the future, particularly in terms of safeguarding the procedural guarantees to which the parties are entitled.

According to Zsolt Zódi’s categorisation,⁴²¹ we are currently in the period of transition from the second to the third era of legal technologies, during which technology is moving from its previous, ‘supporting’ role characteristic of the second era into the ‘creative’ domain, and is becoming capable of creating or altering things (this also signifies the advent of artificial intelligence).⁴²² This fact is also interesting in the context of the suggestion that several interviewees mentioned the use of artificial intelligence, primarily in connection with search engines: the Supreme Court’s role in ensuring legal uniformity – which requires effective searching among precedent-setting decisions (the Supreme

421 See section III.4.2.1 of the monograph.

422 ZÓDI, In *Medias Res* 2020, op. cit., pp. 340–341.

Court’s published decisions) and within their content – may necessitate the use of legal analysis software, which is already in its third era. In addition, the wider application of the currently available automatic document generation software – which is used on a daily basis in the anonymisation process and belongs to the second era of legal technologies – has been raised. This software⁴²³ is suitable for more limited use: primarily for the consistent display of data already entered into the system and the insertion of template text.⁴²⁴ However, using it more effectively requires appropriate training.

It should also be emphasised that the research has confirmed that, for the time being, there is no apparent need to develop an automated system that excludes the human element from the decision-making process; both questionnaire respondents and interviewees considered the role of the judge to be indispensable in this regard. The rejection of the possibility of ‘automated decision-making’ implies that a decision requiring deliberation and synthesis must be made by a judge (a human being), because “only a judge is capable of guaranteeing genuine respect for fundamental rights, striking a balance between conflicting interests, and taking ongoing social changes into account when analysing cases.”⁴²⁵

According to the findings of this research, the area where artificial intelligence may play a role in the near future is the support of judicial decisions: text analysis of the Supreme Court’s precedent-setting decisions (published in BHGY) to identify relevant rulings, or the processing of large volumes of data (e.g. invoice data, balance sheet data).⁴²⁶ This also demonstrates that the

423 ZÓDI, In *Medias Res* 2020, op. cit., pp. 343–344.

424 For details on the tools proposing the content of the judgment, see: KÁLMÁN, op. cit., pp. 118–128.

425 Commission Communication (The Digitalisation of Justice in the European Union: A Toolbox of Opportunities) [SWD(2020) 540 final], p. 13.
<https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=CELEX:52020DC0710> Downloaded: 6 September 2024.

426 For international experiences regarding the use of artificial intelligence in the administration of justice, see:

András Tóth: The impact of artificial intelligence on the administration of justice. In: *The 150th anniversary of the enactment of Act IV of 1869 on the exercise of judicial power*. The Supreme Court’s ceremonial plenary session and conference. Supreme Court. Budapest, 2019. pp. 129–140, NAGY Adrienn: The significance of artificial intelligence and digitalisation and their potential areas of application in the administration of justice. *Infokommunikáció és Jog*, 2020/2. e-special issue, REILING, Dory: Courts and Artificial Intelligence. *International Journal for Court Administration*. (2020) 11(2)

introduction of systems operating even partially without human intervention in this field requires very serious consideration and thorough preparation involving the parties concerned.⁴²⁷ However, regarding the role of artificial intelligence in the administration of justice, one must certainly bear in mind the position articulated by Adrienn Nagy, according to which the question is not whether it has a place in this field, but rather when and to what extent it will reshape individual roles.⁴²⁸ Digitalisation and artificial intelligence pose significant challenges to the thinking of legislators and law enforcement officials in other areas of law as well; however, these issues are not insurmountable, although in many cases they require a paradigm shift.⁴²⁹

The potential risks of systems operating exclusively digitally have emerged as a question requiring scientific examination, given that the recent energy crisis has highlighted the vulnerability and fragility of systems that were previously considered reliable. It is perfectly clear and evident, as

427 For considerations regarding the long-term legal framework for the use of artificial intelligence in the courts, see: Nóra CHRONOWSKI – Kinga KÁLMÁN – Boldizsár SZENTGÁLI-TÓTH: Old frameworks, new challenges: the prudent integration of artificial intelligence into judicial work and its impact on the right to a fair trial. *Glossa Iuridica*, Vol. 8, No. 4, Faculty of Law and Political Science, Károli Gáspár University of the Reformed Church. Budapest, 2022, pp. 7–38, cf. Dániel NECZ: *A New Kind of Knowledge, a New Kind of Power – Artificial Intelligence and the Protection of Personal Data*. PhD thesis. Doctoral School, Faculty of Law and Political Science, Pázmány Péter Catholic University. Budapest, 2024. Szabolcs DIÓSI: *Artificial Intelligence, Synthetic Reality – Global Challenges and European Regulatory Strategies Relating to AI and GenAI Systems*. Doctoral School of Political Science and Law, University of Pécs, 2024. Numerous studies have also been published on foreign examples; see, for example, RUBIM BORGES FORTES, Pedro: *Paths to Digital Justice: Judicial Robots, Algorithmic Decision-Making, and Due Process* (The Path to Digital Justice: Judicial Robots, Algorithmic Decision-Making, and Due Process – translated by the author), *Asian Journal of Law and Society*, Cambridge, UK: Cambridge University Press 2020-11, Vol. 7 (3), pp. 453–469, in which the author sets out several arguments against algorithmic decision-making based on the reproduction of past patterns: one of these is that past patterns (input data) i.e. existing precedents, to generate ‘outputs’, which are unsuitable for dealing with new situations in a changing world; furthermore, the opacity of algorithms may raise issues regarding legal certainty, which may not even be resolved through auditing (who supervises and certifies the audit?).

428 NAGY, Adrienn: Digitalisation and Artificial Intelligence in the Hungarian Justice System. *Miskolci Jogi Szemle*, 2020, Special Issue 3, p. 109.

429 SZILAGYI, Gabor – GYARMATHY, Judit: Emergence of Digitalisation and Artificial Intelligence in the Intellectual Property System (translated by the author). (2023). *Institutiones Administrationis – Journal of Administrative Sciences*, 3(2), pp. 122–141.

Zsolt Zódi writes: it is true that judges and the parties – with certain exceptions – primarily need data (which they can enter into the relevant system via an electronic form), rather than paper.⁴³⁰ However, it must also be borne in mind that if – to put it simply – ‘there is no electricity’, i.e. a power outage or IT problem arises, access to electronic systems may become impossible – at least temporarily – and in view of this, it is worth maintaining the ‘paper-based nature’ of proceedings in the majority of cases, at least until a better and more secure solution is found.

In summary, it can be concluded that the continuation of digitalisation developments is a natural necessity. In this area too, we must adapt to changes in the outside world, but this adaptation from the preparation phase and throughout development and implementation, necessarily entails taking into account and utilising the experience gained within the court system, and can only be envisaged through the ‘live’ implementation of systems that have been properly thought through, modelled for the entire process, tested and trialled.

430 ZÓDI In Medias Res 2020, op. cit., p. 353.

VIII. Concluding remarks

Digital tools and technologies have a significant impact on our daily lives; electronic devices and the software running on them are part of our lives: we now use them naturally for communication, administration and entertainment alike. It is no exaggeration to say that they have changed our lives and our work; this transformation is not yet over, it is still taking place today, and naturally it directly affects the state apparatus and, consequently, the functioning of the justice system.

It is precisely because of this realisation and the significance of this transformation that the legislature recently deemed it important for the Fundamental Law to state that the state promotes digitalisation and the application of related technological solutions.⁴³¹ The twelfth amendment to Hungary's Fundamental Law provided that, with effect from 1 July 2024, Article XXVI of the Fundamental Law shall be replaced by the following provision:

“Article XXVI

- (1) The State, in order to increase its efficiency, the quality of public services, the transparency of public affairs, and to promote the principle of equal opportunity, shall endeavor to employ the latest results of science and technology.
- (2) In Hungary, in order to achieve the goals defined in Paragraph (1), managing cases digitally is given priority, where the State provides a unique digital identifier for all, as provided for by law. The State shall process all data that is necessary for managing cases digitally by way of the means and to the extent prescribed by the relevant government decree.”

We have already mentioned the European Union's efforts in connection with the development of a European digital identity,⁴³² which aims to enable the cross-border use of the EU's Digital Identity Wallet (EDIW – European Digital Identity Wallet) and has called on Member States to enact legislation in this regard.

⁴³¹ Explanatory memorandum to Article 2 of the Twelfth Amendment to the Fundamental Law of Hungary.

⁴³² eIDAS Regulation 2.0.

Following this, the aforementioned DAP Act, establishing digital citizenship, was promulgated. According to the explanatory memorandum, this Act lays down the fundamental rules relating to the digitisation of public administration, the provision of services in the digital space and the use of such services, with a view to providing citizens with simple, convenient and efficient online services. Essentially, users who opt to use the service can manage their official affairs via a mobile phone app, which provides – amongst other things – identification and digital signatures, secure electronic communication and document management, as well as an online payment system for the services. A key objective is to simplify administrative processes, on the one hand by providing easy access to the required services via a unified, user-friendly interface, and on the other by ensuring that data already available in the system does not need to be re-entered during the process.

The direction set is clear: digital administration takes precedence over paper-based, in-person administration, and to promote this, everyone has access to a unique, permanent, universally and voluntarily usable identifier. In the near future, it will also become clear what role this development might play in practice in the context of court proceedings.

All this shows that developments in the ‘outside world’—including, where relevant, major new digitalisation trends affecting state systems⁴³³ — must be continuously monitored, just as has been the case — as outlined in Chapter III — within the judicial system. The developments that began in the early 2000s, initially on a smaller scale, accelerated from the mid-decade onwards, following predefined directions, and then in the 2010s progressed explosively in line with the specific strategy set out in the analysed projects, both in terms of content (software) and the procurement of physical equipment. The latest developments, EU legislative trends, the DAP Act, the emergence and rapid spread of artificial intelligence, and the frequent calls for an online court all point in the direction of the need to outline a vision of what

433 For further details, see: National Digitalisation Strategy, 2022–2030.
<https://cdn.kormany.hu/uploads/document/6/60/602/60242669c9f12756a2b104f-8295b866a8bb8f684.pdf>
 Downloaded: 24 August 2024.

the Hungarian courts should look like in ten years' time.⁴³⁴ Indeed, all future planning and development should be conceived and implemented in line with this strategy.⁴³⁵

It is also clear that digitalisation is not an end in itself; it must serve the purpose of facilitating access to justice, as I have demonstrated from several perspectives: Chapter II on procedural efficiency supported by rules of procedure, and Chapter IV on applicability in exceptional circumstances and ensuring operational capability.

It has also been confirmed that digitalisation increases the resilience and flexibility of the court system. In a pandemic situation that took the whole world by surprise and caught it unprepared, those courts were able to remain operational whose digitalisation – through remote access to documents and secure remote communication – had already been implemented. It is worth noting that in civil cases, the fundamental principles of the Code of Civil Procedure were upheld (cases/trials were not delayed; procedural efficiency – the enforcement of substantive law was ensured within a framework of fair proceedings).

As the unpredictable future may still bring about similar situations – which restrict or render personal contact impossible, and which are perhaps even difficult to imagine today – the 'flexible response' already tested in legislation and law enforcement could play a significant role in resolving them. It is also clear that systems operating exclusively digitally pose a serious risk, due to the vulnerability and fragility arising from their exclusivity.

434 On the changing role of the courts and experiences of the digitalisation of Chinese courts, see: András OSZTOVITS: Courts at a Crossroads – Tradition or Renewal? *Valóság*, 2022/6, pp. 1–11.

435 A Dutch judge and researcher provides a clear illustration of the impact of the lack of a well-thought-out strategy in the field of IT developments in the courts: the Criminal Justice Appeal System (HBS – Hoger Beroep Systeem Strafrecht) project was intended to be the first electronic workflow management system in the Dutch courts. However, as those involved in the justice system did not have a clear vision of the role of the development or its direction, and had no related strategy, they were consequently unable to provide adequate guidance for the project. As a result, they were unable to produce functionality suitable for the user, and the project was eventually discontinued. See in detail: REILING, Dory: *Technology for Justice. How Information Technology Can Support Judicial Reform* (Technology for Justice: How Information Technology Can Support Judicial Reform – translated by the author). Leiden, Amsterdam University Press, Leiden, Amsterdam, 2009. pp. 62–65 and pp. 69–70.

Indeed – as we have recently experienced – in the event of a power cut or IT problem, access may become impossible, at least temporarily; in view of this, it is advisable to maintain the ‘paper-based’ nature of procedures in the majority of cases, however, modernising administrative rules is a priority for the near future.

Nor can we ignore the trend towards the expansion of ‘alternative dispute resolution’. In Susskind’s words, our courts are “too expensive, too slow and difficult to understand”, and the greatest improvement in access to justice is offered by online courts – by which I also mean digital platforms for alternative dispute resolution.⁴³⁶ Although I have deliberately not addressed this area in the monograph, it is certain that – particularly in order to safeguard the guarantees of court proceedings – even justified and necessary reforms must be implemented with great caution.⁴³⁷

Finally, I would like to mention a recent incident that clearly highlights the vulnerability of our digital world and serves as a warning to exercise caution. In July 2024, a global IT outage occurred, affecting airports and banks in particular, but also hospitals. As it turned out, a fault in a software update that had been rolled out as widely as possible caused this unprecedented disruption, which demonstrated just how vulnerable our networked world really is to the functioning of technology.⁴³⁸ In any case, this is another event from which, in my view, the main lesson for the upcoming phases of the judicial system’s digitalisation is that we must prepare for unexpected situations by incorporating as many security measures as possible, and that changes must be implemented in line with a well-thought-out strategy, following careful planning and with the involvement of all stakeholders.

436 SUSSKIND, *op. cit.*, p. 8.

437 Regarding the latest initiatives, see the European Law Institute (ELI) project entitled ‘Alternative Dispute Resolution in Cross-Border Family and Succession Matters’, funded under the European Union’s Rule of Law Programme in collaboration with two universities: <https://www.europeanlawinstitute.eu/projects-publications/current-projects/current-projects/eli-principles-extra-judicial-administration-of-justice-in-cross-border-family-and-succession-matters/> Downloaded: 1 September 2024

438 “Blue Screen of Death”: Microsoft glitch causes flight cancellations and bank outages worldwide. Euronews, 19 July 2024.

<https://hu.euronews.com/next/2024/07/19/kek-halal-vilagszerte-jarattorlesek-banki-leallasok-microsoft-uzemzavar> Downloaded: 28 August 2024.

Appendices

Appendix 1

Digitalisation and the courts questionnaire

Introduction

Dear Respondent!

This questionnaire is intended to analyse research conducted as part of a PhD thesis. The questionnaire collects data anonymously, and during data analysis, it is ensured that the respondent cannot be identified.

Completing the questionnaire will take approximately 20 minutes.

For the open-ended questions, I am interested in your subjective opinion; please feel free to include critical or supportive comments whilst completing the questionnaire.

Thank you for completing the questionnaire!

Details of the respondent

1. What is your field of specialization as a judge?

- ☐ Civil (commercial)
- ☐ Labour
- ☐ Criminal
- ☐ Administrative

2. Do you have a degree or qualification in IT?

Yes ☐ No ☐

3. To what extent do you consider yourself a competent user from an IT perspective?

Not at all 1 2 3 4 5 Definitely yes

Quantitative questions

4. In your opinion, what impact does the digitisation of the courts have on the time taken to resolve cases?

It definitely slows things down 1 2 3 4 5 Significantly speeds up

5. In your opinion, what impact does digitalisation have on judicial work?

It makes it significantly more difficult 1 2 3 4 5 Makes it much easier

6. In your opinion, what impact does digitalisation have on activities supporting adjudication within the court?

Makes it significantly more difficult 1 2 3 4 5 Makes it significantly easier

7. In your opinion, what impact does digitalisation have on communication with legal representatives/clients?

Makes it significantly more difficult 1 2 3 4 5 Makes it much easier

8. Are you satisfied with how up to date the court system is in terms of IT and digitalisation?

I am not satisfied 1 2 3 4 5 I am completely satisfied

9. Are you satisfied with the operating speed of the court's digitalisation solutions?

The systems are particularly slow 1 2 3 4 5 The systems are particularly fast

Qualitative questions

If you do not wish to or are unable to answer any of the questions, please state this.

14. What do you think: what is the purpose of court digitisation?
15. What are your views on the benefits of the digital transition for the courts?
16. What are your views on the benefits of the digital transition for the parties to the proceedings?
17. In your view, what challenges do the courts face in relation to the digitisation of the courts?
18. In your view, what challenges do litigants face in connection with the digitisation of the courts?
19. In your experience, what technological tools and systems facilitate digitalisation in the courts?
20. How do you feel digitisation affects the efficiency and speed of case management?
21. In your opinion, do legal and ethical issues or anomalies arise during digital court proceedings, and if so, what are these?
22. In your experience (if any), how are electronic evidences handled in the courts?

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23. In your view, what changes has digitalisation brought about in court communications and document management?
24. In your opinion, what skills and training do judges require in a digital environment?
25. In your experience, what impact does digitalisation have on judicial decision-making in in judicial work?
26. Do you think the results of court digitalisation have an impact on legislative processes?
27. What are the first keywords that come to mind when you hear the term “artificial intelligence”?
28. Any other comments, observations or suggestions regarding the digitisation of the courts?

Appendix 2

Questions asked during the in-depth interviews:

- 1) What is your experience in the field of court digitisation?
- 2) What key points do you identify in the development of court digitisation?
- 3) What caused problems in the digitalisation developments?
- 4) What has helped and what has hindered digitisation in previous stages of development and at present?
- 5) What further digitalisation developments do you consider necessary for the future?
- 6) In your opinion, how can certain aspects of the work of judges and court staff be replaced by digitalisation developments now and in the future?

Bibliography

- The Measurability of the Good State. Good State Research Workshop, ÁROP-2.2.21-001 '*Knowledge-based Public Service Career Progression*', National University of Public Service. Budapest, 2014.
- Ádám AUER – Ferenc CSIBOR – Katalin OROSZ – Péter POLLNER: The impact of the limited precedent system on references in Supreme Court judgments. *Journal of Legal Science*, 2024/5.
- Zsolt György BALOGH: On Information and Communications Law. *Information and Communications Law*, 2004/2.
- Zsolt György BALOGH: Regulation of the publication of court decisions in Hungary. *Infocommunications and Law*, 2013/2.
- BANGEMANN, Martin: *Europe and the global information society; Recommendation to the European Council*. Brussels, 1994.
- Bálint BASSOLA – Kristóf CSILLIK: Lack of coherence in the limited precedent system? – Certain anomalies in the regulation of applications for review submitted on the grounds of a divergence from a published decision of the Curia on a point of law. *Civil Law*, 2023/9-10.
- Nándor BIRHER: The adaptation of other legal systems in the context of modern technological regulation, in parallel with legislation. In: Árpád Olivér Homicskó (ed.): *Technological challenges in specific areas of law*. Faculty of Law and Political Science, Károli Gáspár University of the Reformed Church. Budapest, 2018.
- Nándor BIRHER: Changes in the regulation of modern technologies: theory versus practice, ethics versus protocol. In: Árpád Olivér Homicskó (ed.): *The impact of digitalisation on specific areas of law*. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Science. Budapest, 2020.
- Nándor BIRHER: *Value-based (public) administration*. Károli Gáspár Reformed University, L'Harmattan Publishing House. Budapest, 2021.

- András BÍRÓ-NAGY – Gergely LAKI: Recommendations and their implementation. Country-specific recommendations of the V4 in a European context. *Journal of Political Science*, 2021/1.
- LÁSZLÓ BLUTMAN: A focal analysis of legal terms: an ancient message in a bottle? *Journal of Legal Theory*, 2010/3. pp. 1–50.
- Zoltán BODA: The potential impact on adjudication of Act XCIV of 2021 on the enforcement of financial compensation in relation to the protracted nature of civil proceedings. In: *György Mailáth Academic Competition 2022*. National Judicial Office. Budapest, 2023.
- Zoltán BODA: *The enforcement of effective remedies as required by the European Court of Human Rights within the Hungarian legal system*. PhD thesis. University of Debrecen, Géza Marton Doctoral School of Political Science and Law. Debrecen, 2025.
- Ádám BOÓC: *Technological challenges in civil law, with particular regard to inheritance law*. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Science. Budapest, 2018.
- Ádám BOÓC: The most important technological legal issues in property law, the law of new technologies and property law. In: Árpád Olivér Homicskó (ed.): *The impact of digitalisation on specific areas of law*. Károli Gáspár Reformed University, Faculty of Law and Political Science. Budapest, 2020.
- Miklós BORONKAY: The ‘limited precedent system’ from a lawyer’s perspective. *Civil Law*, 2022/11-12.
- Gabriella Eleonóra BONYHAI: The Transfer of an Estate – The Certificate of Succession in the Light of the Romanian Civil Code and Regulation (EU) No 650/2012 of the European Parliament and of the Council. *Erdélyi Jogélet*. 2021/2.
- János BÓKA ‘To Delay Justice Is Injustice’: A Comparative Analysis of the Requirement of a Reasonable Time Limit. In: Attila Badó (ed.): *Judicial Independence, Fair Trial and Politics*. Comparative Legal Studies. Gondolat Publishing House. Budapest, 2011.

Nóra CHRONOWSKI – Kinga KÁLMÁN – Boldizsár SZENTGÁLI-TÓTH: Old frameworks, new challenges: the prudent integration of artificial intelligence into judicial work and its impact on the right to a fair trial. *Glossa Iuridica*, Vol. 8, No. 4, Faculty of Law and Political Science, Károli Gáspár University of the Reformed Church. Budapest, 2022.

CHUNDUR, Suguna: Digital Justice: Reflections on a community-based research project. *The Journal of Community Informatics*, 2020/12.

Zsolt CZÉKMANN – SZABÓ Balázs: Key strategic steps in the development of the information society in Hungary, with particular reference to the National Infocommunications Strategy 2014–2020. In: Váradi-Csema Erika (ed.): *Current Issues and European Responses in the Field of Law and Justice in Romania and Hungary: Provocări și răspunsuri în domeniul dreptului și sistemului judiciar din România și Ungaria*. University of Miskolc. Miskolc, 2015.

Zsolt CZÉKMANN: *The Information Society and E-Government in Hungary*. PhD thesis, Ferenc Deák Doctoral School of Political Science and Law. Miskolc, 2016.

Ágnes CZINE: *Fair trial proceedings. Audiatur et altera pars*. HVG-ORAC Lap- és Könyvkiadó Kft. Budapest, 2020.

Gergely CZOBOLY: *Procedural tools for preventing the prolongation of litigation*. PhD thesis. Doctoral School of the Faculty of Law and Political Sciences, University of Pécs. Pécs, 2014.

Gergely CZOBOLY: The Prolongation of Civil Litigation. In: András Jakab – György Gajduschek (eds.): *The State of the Hungarian Legal System*. Hungarian Academy of Sciences Centre for Social Sciences, Institute of Legal Studies. Budapest, 2016.

Zoltán CSEHI: The Image of Humanity in the Civil Code. An Anthropological Approach to Act V of 2013. *Iustum Aequum Salutare*, 2025/1.

Csaba CSERVÁK – György Tamás FARKAS – János RIMASZÉCSI: Current issues underpinning the scope of democracy in relation to the 2017 and 2008 Good State Reports. In: Kaiser, Tamás (ed.): *The Measurability of the Good State III*. Dialóg Campus Publishing. Budapest, 2019.

Lóránt CSINK: When should the legal system be exceptional? *Iustum Aequum Salutare* 2017/4.

Mónika CSÖNDES: Comments from the perspective of civil substantive law on the title and text of Act LXX of 2020 on ‘expedited proceedings for compensation for damage caused by a criminal offence and for damages’. *Corvinus Law Papers* (CLP), 1/2021.

Péter DARÁK: The challenges of digitalisation in law-making and law enforcement. In: Péter Darák (ed.): *Digitalisation and communication in taxation: studies based on the proceedings of the 13th International Tax Conference on Taxation in Europe*. Penta Unió. Budapest, 2019.

Szabolcs DIÓSI: *Artificial intelligence, synthetic reality – Global challenges and European regulatory strategies relating to AI and GenAI systems*. Doctoral School of Political Science and Law, University of Pécs, 2024.

Marianna DZSULA: Electronic company registration and its impact on public credibility. *Acta Conventus de Iure Civili* Tomus X., 2009.

Zsuzsanna FEKETE: The past, present and future of the rules governing small claims litigation in Hungary in the light of procedural efficiency. *Eljárás-jogi Szemle*, 2017/1.

Bálint FERENCZ: Those who wanted online courts even before the coronavirus. Review of Richard Susskind’s book **Online Courts and the Future of Justice**. **Pro Futuro – The Law of Future Generations**, 2020/1.

Anita FIBINGER – Krisztián KÁDÁR – Péter KOVÁCS – András MAGYAR: *Customer service in public administration*. Special report. National University of Public Service. Budapest, 2017.

Judit GÁL: The new rules of the compulsory cancellation procedure in the light of the state of emergency. In: Balázs Bodzási – Zoltán Csehi (eds.): *Covid-19 and economic law. The impact of the coronavirus pandemic and the state of emergency under Act LXXXVII of 2020 on Hungarian economic law*. Hungarian Lawyers’ Association. Budapest, 2023.

Judit GÁL: New Approaches to Registration Systems – On the Registration of Legal Entities. *Economy and Law*, 2023/1-2.

- Balázs Szabolcs GERENCSÉR: Special Legal Orders. In Lóránt Csink – Balázs Schanda – András Zs. Varga (eds.): *The Basic Law of Hungary. A First Commentary*. Claurus Press Ltd. Dublin – National Institute of Public Administration, Budapest, 2012.
- Balázs Szabolcs GERENCSÉR: Remote hearings and online interpreting in criminal proceedings. The relevance of digital tools in Europe and Hungary post-pandemic. *Iustum Aequum Salutare* 2023/4.
- Márta GÖRÖG: The practice of anonymising court judgments in German and Austrian courts. *Infokommunikáció és Jog*, 2013/2.
- Judit GYARMATHY: Challenges in court administration. In: Tamás Sárközy (ed.): *From the presentations of the 37th Itinerant Conference of Lawyers*. Proceedings of the Hungarian Lawyers' Association. Hungarian Lawyers' Association. Budapest, 2015.
- Judit GYARMATHY – Zsuzsanna SÁNDOR-SZŐKE: National conference on experiences with the new Code of Civil Procedure. *Journal of Legal Science*, 2019/11.
- Judit GYARMATHY: Emergency regulations and their impact on the review procedure. In: *Law and State. 23rd National Conference of Doctoral Students in Law*. Faculty of Law and Political Science, Károli Gáspár University of the Reformed Church. Budapest, 2022.
- Judit GYARMATHY: Civil litigation before the Supreme Court during the coronavirus pandemic. In: Balázs Bodzási – Zoltán Csehi (eds.): *Covid-19 and economic law. The impact of the coronavirus pandemic and the state of emergency on Hungarian economic law*. Hungarian Lawyers' Association. Budapest, 2023.
- Judit GYARMATHY: Commencement of proceedings, Sections 172–173. In: Zsuzsa Wopera (ed.): *Comprehensive Commentary on Act CXXX of 2016 on the Code of Civil Procedure*. Wolters Kluwer Hungary Kft. Budapest, 2023.
- Judit GYARMATHY: Chapter XXV: Types, content and notification of decisions. In: Zsuzsa Wopera (ed.): *Comprehensive Commentary on Act CXXX of 2016 on the Code of Civil Procedure*. Wolters Kluwer Hungary Kft. Budapest, 2023.

- Judit Gyarmathy: Court digitalisation in Hungary. From the early stages of the court IT system towards digitalisation. Part I. *Magyar Jog*, 2025/2.
- Judit GYARMATHY: Court digitisation in Hungary. Is electronic the same as digital? Part II. *Magyar Jog*, 2025/3.
- Judit GYARMATHY: Court digitisation in the light of international surveys. *Fontes Iuris*, 2024/3-4.
- Judit GYARMATHY: The publication of court decisions and its consequences. *Infokommunikáció és Jog* (accepted, forthcoming)
- Tamás GYEKICZKY: The legal system and lawyers in the digital society. *Eljárásjogi Szemle*, 2018/2.
- Viktória HARSÁGI: Electronic documents, electronic signatures. *Magyar Jog*, 2001/11.
- Viktória HARSÁGI: An overview of the development of the Hungarian order for payment procedure from 1893 to the present day. *Iustum Aequum Salutare*, 2012/3-4.
- Viktória HARSÁGI: The issues surrounding electronic order for payment procedures – through Hungarian, German and Austrian examples. *Infokommunikáció és Jog*. 2012. Nos. 5–6.
- Viktória HARSÁGI: Digital transformation of court proceedings, artificial intelligence and the principles of civil procedure. *Pázmány Law Review*, Vol. XI, 2024.
- HEGEDŰS, Ákos: *Possibilities for expediting proceedings in cases concerning personal status*. PhD thesis. University of Debrecen, Géza Marton Doctoral School of Political Science and Law. Debrecen, 2023.
- Péter HOMOKI: IT for lawyers during the pandemic. *In Medias Res*, 2020/2.
- Írisz E. HORVÁTH: E-hearings in civil litigation. E-hearings and the fundamental principles of civil procedural law. *Infocommunication and Law*, 2009/6.
- HORVÁTH E. Írisz: E-hearings in civil litigation. E-hearings and European legislation. *Infocommunication and Law*, 2010/4.

- András JAKAB – Szabolcs TILL: The Special Legal Order. In: László Trócsányi – Balázs Schanda (eds.): *An Introduction to Constitutional Law*. HVG-ORAC Publishing Ltd. Budapest, 2013.
- András JAKAB: Measuring the Rule of Law Using Indices. *Pázmány Law Working Papers*, 2015/12.
- KÁLMÁN Kinga – KISS Laura Olga – SZENTGÁLI-TÓTH Boldizsár: Artificial intelligence-based software in courts around the world: practical experiences, perspectives. In: Zódi Zsolt (ed.): *Legal technologies. Digital law enforcement*. Ludovika University Press. Budapest, 2022.
- Mátyás KAPA: Developmental trends in Hungarian civil procedure law – with particular regard to electronic civil procedure. *De iurisprudentia et iure publico*, 2007/1-2.
- Szabolcs KÉKEDI: The future of court digitisation, or how did electronic communication become the key to adjudication in a crisis? *In Medias Res*, 2020/2.
- Szabolcs KÉKEDI – Zsolt ZÓDI: The state of court IT in Hungary. In: Zsolt Zódi (ed.): *Legal technologies. Digital law enforcement*. Ludovika University Press. Budapest, 2022.
- Anna KISS: On remote hearings. *Ügyészek Lapja*, 2015/5.
- Attila KISS: *The manifestation of the requirement of procedural concentration through fundamental principles and the divided procedural structure*. PhD thesis. University of Debrecen, Géza Marton Doctoral School of Political Science and Law. Debrecen, 2023.
- Daisy KISS: E/E – or the impact of the electronic society on procedural law. *Magister artis boni et aequi – Studia in honorem János Németh*. ELTE Eötvös Publishing House. Budapest, 2003.
- Tamás KLEIN – Gyula Balázs CSÁKI-HATALOVICS: The regulatory foundations of the electronic signature. In: András Tóth – Tamás Klein (eds.): *Introduction to Information and Communications Law*. Patrocinium Publishing. Budapest, 2016.
- Ildikó KOVÁCS – László PRIBULA: The practice of financial compensation for the excessive length of proceedings. *Journal of Legal Studies*, 2023/2.

- Charlotta KRONBLAD – Johanna Envall PREGMARK: When digitalisation hit the court: Strategising to turn turbulence into opportunities. *Journal of Professions and Organisation*, Volume 12, Issue 1, February 2025.
- LANGFORD, Malcolm – BEHN, Daniel – LIE, Runar Hilleren: The Revolving Door in International Investment Arbitration, *Journal of International Economic Law*, Volume 20, Issue 2, June 2017.
- LANGFORD, Malcolm – MADSEN, Mikael Rask: *France Criminalises Research on Judges*, *VerfassungsBlog*, 22 June 2019.
- Balázs LEHÓCKI: The Independence of National Courts Responsible for the Application of EU Law. *Acta Humana – Human Rights Bulletin*, 2019/3.
- Gabriella LIPTÁK-VIDA: Special rules for small claims and high-value cases in civil procedure. *Debrecen Law Workshop*, 2014/1–2.
- Géza MAGYARY: The Principles of Oral Proceedings and Directness in the New Code of Civil Procedure. *Journal of Legal Science*, 1912/40.
- László MAJTÉNYI – Péter MOLNÁR – Ádám PETRI LUKÁCS – Máté Dániel SZABÓ (eds.): *Freedom of Electronic Information. The Concept of Legislative Regulation on the Publication of Court Decisions*. Eötvös Károly Institute. Budapest, 2005.
- Gábor MARÓTI: Procedural factors relating to the defendant's absence in matrimonial proceedings concerning the validity of marriage: A synthesis based on the analysis of anonymised judicial decisions. *ACTA TRIBUNALIA: Case Law of the Diocesan Court of Győr*. Paper: 2019/2.
- Pál Emil MÉSZÁROS: The problem of procedural acts to be performed at the hearing in relation to electronic case management. *Studia Iurisprudentiae Doctorandorum Miskolciensium*, 2021/1.
- Pál MÉSZÁROS: Certain issues of electronic administration in relation to the Code of Civil Procedure. In: Csaba Szilovics; Zsolt Bujtár; Barnabás Ferencz; Alexander Roland Szívós; Botond Breszkovics; Zsolt Gáspár (eds.): *Economic challenges in the 21st century*. University of Pécs, Faculty of Law, Department of Financial and Economic Law. Pécs, 2021.

- Pál Emil MÉSZÁROS: Regulation (EC) No 1896/2006 of the European Parliament and of the Council establishing a European order for payment procedure. In: Pál Emil Mészáros – Nárcisz Projics (eds.): *European Civil Procedure Law*. University of Pécs, Faculty of Law. Pécs, 2022.
- Judit MOLNÁR: 10 Years of the European Order for Payment Procedure – Assessments and Future Challenges. *Miskolc Law Review*, 2016/2.
- Adrienn NAGY: Digitalisation and Artificial Intelligence in the Hungarian Judiciary. *Miskolc Law Review*, 2020, Special Issue 3.
- Adrienn NAGY: The significance of artificial intelligence and digitalisation and their potential areas of application in the justice system. *Infocommunication and Law*, 2020/2. e-special issue.
- Adrienn NAGY – Csaba TÓTH: New directions in ensuring the uniformity of legal practice: the introduction of a limited precedent system in Hungary. *Publicationes Universitatis Miskolcensis*, Sectio Juridica et Politica, Tomus XLII/1. 2024.
- Álmos Lukács NAGY: The European order for payment procedure and issues arising from its application in Hungary. In: Balázs Bodzási (ed.): *Proceedings of the Hungarian Lawyers' Association*. Hungarian Lawyers' Association. Budapest, 2022.
- Andrea NAGY: Enforcement proceedings, electronic communication. In: Judit Siket (ed.): *Explanation of basic legal concepts relating to the activities of the judicial professions*. Hungarian Gazette Newspaper and Book Publishing House. Budapest, 2022.
- Andrea NAGY: Electronic communication. In: Judit Siket (ed.): *Explanation of basic legal concepts relating to the activities of the judicial professions*. Magyar Közlöny Lap- és Könyvkiadó. Budapest, 2022.
- Gábor Bálint NAGY: An examination of the necessity of mandatory audio and video recording in courtrooms. *Eljárásjogi Szemle*, 2016/3.
- Dániel NECZ: *A new kind of knowledge, a new kind of power – artificial intelligence and the protection of personal data*. PhD thesis. Doctoral School of the Faculty of Law and Political Science, Pázmány Péter Catholic University. Budapest, 2024.

Csaba NÉMETH: Procedural and constitutional aspects of digital court hearings in civil proceedings – Proposals for the introduction of digital court hearings in Hungary. *Economy and Law*, 2021/2, 1–9.

Csaba NÉMETH: Procedural and constitutional aspects of digital court hearings in civil proceedings – Proposals for the introduction of digital court hearings in Hungary. *Magyar Jog*, 2021/2, 76–85.

Anna NYILAS – László PRIBULA: The protection of the ‘weaker party’ in the new Code of Civil Procedure. In: Veronika Szikora – Zsuzsanna Árva (eds.): *Redesign. Consumer regulatory models, digitalisation, data protection*. University of Debrecen, Faculty of Law and Political Science, Debrecen 2019.

László ORMAI: The impact of digitalisation on domestic electronic company proceedings. In: Zsolt Ződi (ed.): *Legal technologies. Digital law enforcement*. Ludovika University Press. Budapest, 2022.

András OSZTOVITS: The future of adjudication in the digital world. In: *The 150th anniversary of the enactment of Act IV of 1869 on the exercise of judicial power*. The Supreme Court’s ceremonial plenary session and conference. Supreme Court. Budapest, 2019.

András OSZTOVITS: Legislative amendment to standardise judicial practice – a wrong step in the right direction? *Magyar Jog*, 2020/2.

András OSZTOVITS: Thoughts on the courts of the near future – Richard Susskind: Online Courts and the Future of Justice. *Magyar Jog*, 2020/9.

András OSZTOVITS: Online courts and the right to justice – opportunity or threat? *Magyar Jog*, 2020/11.

András OSZTOVITS: The right to a fair trial in the digital age. In: Zoltán J. Tóth (ed.): *The right to a fair trial*. Wolters Kluwer Hungary Kft. Budapest, 2021.

András OSZTOVITS – András TÓTH: Civil procedural issues in times of crisis – a temporary or permanent shift in model? In: Péter Miskolczi-Bodnár (ed.): *Joint anthology of lecturers and students*. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Science. Budapest, 2021.

- András OSZTOVITS: In the web of technology – the present and possible future of private law enforcement. In: Zsolt Zódi (ed.): *Legal technologies. Digital law enforcement*. Ludovika University Press. Budapest, 2022.
- András OSZTOVITS: Courts at a Crossroads – Tradition or Renewal? *Valóság*, 2022/6.
- Bálint ÖKRÖSS: *Reform of Legislation: A Proposal for the Code of Civil Procedure Based on Oral Proceedings, Directness and Publicity*. Franklin Society. Budapest, 1880.
- Péter PACZOLAY: The Predictability and Consistency of Judicial Decisions. In: Tibor Nochta – Gábor Monori (eds.): *IUS EST ARS – Festive Studies in Honour of Professor Antal Visegrády's 65th Birthday*. Faculty of Law and Political Sciences, University of Pécs. Pécs, 2015.
- Zita PÁKOZDI: Technology and the human factor – a selection from the revised provisions of the Civil Procedure Code. In: Mário Certicky (ed.): *Innovative private law solutions in the service of socio-economic progress*. Association of Private Law Lecturers. Szeged, 2020.
- Dóra PÁLFI: Online dispute resolution – existing models in the market and possible paths to 'nationalisation'. In: Zsolt Zódi (ed.): *Legal technologies. Digital law enforcement*. Ludovika University Press. Budapest, 2022.
- Tamás PARTI: *The Adaptation of Ownership of Digital Data, in Light of the Property Law Interactions of Digital Assets*. PhD thesis. Károli Gáspár University of the Reformed Church, Doctoral School of Political Science and Law. Budapest, 2023.
- Tibor PATAKY: Some thoughts on the Act on Expedited Proceedings, *Law of Damages and Insurance*, 2020/3.
- Viktória Lilla PATÓ: The digital maturity of Hungary's justice system: lessons from the indicators of the 2021 EU Justice Scoreboard. In: Nikolett Dóra Bagi – Viktória Lilla Pató – Laura Schmidt – Bettina Tóth (eds.): *EUSTRAT Working Papers 2021, First Half-Year*, Ludovika University Press. Budapest, 2022.
- Kinga PÁZMÁNDI: The registration system for legal entities in certain Member States of the European Union and in Hungary. *Magyar Jog*, 2015/4.

- Linda PETŐ – Zsolt CZÉKMANN: Experiences of remote hearings in criminal proceedings, with particular regard to the Covid-19 pandemic. *Infocommunication and Law*, 2022/2.
- Lea PÖDÖR: Towards online courts: Theories and solutions at the dawn of a new technological era. In: Judit Glavanits; Tamás Szabó (eds.): *Vulnerable groups in the digital world: Legislative and law enforcement challenges of digitalisation*. Universitas-Győr Nonprofit Kft. Győr, 2024.
- László PRIBULA: On the Changing Role of Court Clerks. *Bírák Lapja*, 2001/2.
- László PRIBULA: The temporal dimension of civil litigation in the light of the legal application of digital technologies. In: Zsolt Zódi (ed.): *Legal technologies. Digital law enforcement*. Ludovika University Press. Budapest, 2022.
- Nárcisz PROJICS: Civil litigation in the age of digitalisation. In: Zsolt Bujtár – Zsolt Gáspár – Csaba Szilovics – Botond Breszkovics – Barnabás Ferencz – Szilvia Ázsoth – Alexander Roland Szívós – Márton Martin (eds.): *FIN-TECH – DEFI – Economic and Legal Opportunities and Risks of Crypto Assets*. Conference Proceedings – Selected Papers. University of Pécs, Faculty of Law and Political Sciences. Pécs, 2022.
- Lilla RAINER: The enforcement of the requirement for proceedings to be concluded within a reasonable time under the new Code of Civil Procedure. In: Péter Miskolczi, Péter Bodnár (eds.): *12th National Professional Meeting of Doctoral Students in Law*. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Sciences. Budapest, 2018.
- RAINER Lilla: *The requirement of completion within a reasonable time in civil proceedings*. PhD thesis. Károli Gáspár Reformed University, Doctoral School of Political Science and Law. Budapest, 2022.
- REILING, Dory: *Technology for Justice. How Information Technology Can Support Judicial Reform*. Leiden, Amsterdam University Press, Leiden, Amsterdam, 2009.
- REILING, Dory: Courts and Artificial Intelligence. *International Journal for Court Administration*. (2020) 11(2)
- REILING, Dory: Digital Justice: Nice to Have but Hard to Achieve. In: *De Souza and Spohr, Technology, Innovation, and Access to Justice*. Edinburgh University Press, Edinburgh 2021.

- RUBIM BORGES FORTES, Pedro: Paths to Digital Justice: Judicial Robots, Algorithmic Decision-Making, and Due Process, *Asian Journal of Law and Society*, Cambridge, UK: Cambridge University Press November 2020, Vol. 7 (3).
- István SABJANICS: Qualified Periods in the Fundamental Law and Beyond. In: Péter Kovács (ed.): *Religio et Constitutio*. Pázmány Press. Budapest, 2014.
- Tamás SÁRKÖZY: Innovation in Law. In: Klára Gellén (ed.): *Law, Innovation, Competitiveness*. Wolters Kluwer Kft. Budapest, 2017.
- Márton SCHULTZ: Current Issues in Anonymisation and Re-identification, with Particular Reference to Making Court Decisions Unrecognisable. In *Medias Res*, 2024/7.
- SHANG, Carrie Shu – GUO, Wenli: Towards Online Dispute Resolution – E-Justice in China. *International Journal of Law and Information Technology*, 2020/2.
- SOURDIN, Tania: Judge v Robot? Artificial Intelligence and Judicial Decision-Making. *UNSW Law Journal*, (2018) 41(4)
- SOURDIN, Tania – LI, Bin – MCNAMARA, Donna Marie: Court innovations and access to justice in times of crisis. *Health Policy and Technology*, Volume 9, Issue 4, December 2020.
- SUSSKIND, Richard: *Online Courts and the Future of Justice*. Oxford University Press, 2019.
- SUSSKIND, Richard: *Online Courts and the Future of Justice*. Orac. Budapest, 2023. (trans. András Osztovits)
- SÜLINÉ Tőzsér Erzsébet – DZSULA Marianna: Abakusz – electronic company registration in Hungary. *Magyar Jog*, 2008/9.
- SZABÓ Endre Győző: A Data Protection Law Analysis of New Technologies. In: Klein Tamás – Tóth András (eds.): *Robot Law – Cyber Law*. Wolters Kluwer Kft. Budapest, 2018.
- Imre SZABÓ: Expertise and liability. *Journal of Legal Science*, 2017/9.
- Imre SZABÓ: Procedural experiments to expedite the enforcement of claims. In: Mário Certicky (ed.): *Innovative private law solutions in the service of socio-economic progress*. Association of Private Law Lecturers. Szeged, 2020.

- Imre SZABÓ: Public law – private law – public trust: on the margins of a legislative amendment. In: Péter Kruzslicz – Márton Sulyok – Anikó Szalai (eds.): *Liber Amicorum László Trócsányi. A collection of essays on the occasion of László Trócsányi's 65th birthday*. University of Szeged, Faculty of Law, Institute of International and Regional Studies. Szeged, 2021.
- Péter SZALAI: Electronic communication in civil proceedings. In: Gergely G. Karácsony (ed.): *The Law of Electronic Proceedings*. Gondolat Publishing House. Budapest, 2018.
- Katalin SZEGHŐ: Issues of law application in expedited proceedings. *Magyar Jog*, 2021/7-8.
- Ágnes SZÉL Napsugár: *Child-centred justice in the light of European and Hungarian legislation*. PhD thesis, Doctoral School of Political Science and Law, Károli Gáspár University of the Reformed Church. Budapest, 2023.
- SZILAGYI, Gabor – GYARMATHY, Judit: Emergence of Digitalisation and Artificial Intelligence in the Intellectual Property System. (2023). *Institutiones Administrationis - Journal of Administrative Sciences*, 3(2).
- SZIVÓS Kristóf: The dogmatic foundations of electronic documents and their regulatory environment. In: Certicky Mário (ed.): *Innovative private law solutions in the service of socio-economic progress*. Association of Private Law Lecturers. Szeged, 2020.
- Levente TATTAY: The challenges of the information society and the European Union. *Foreign Trade*, 2003/10.
- András TÉGLÁSI: The EU Justice Scoreboard – the first five years. In: Tamás Kaiser (ed.): *The Measurability of the Good State III*. Dialóg Campus Publishing. Budapest, 2019.
- Szabolcs TILL: Special Legal Order. In: András Jakab – Balázs Fekete (eds.): *Online Encyclopaedia of Legal Science* (Constitutional Law section, section editors: Eszter Bodnár, András Jakab) <http://ijoten.hu/szocikk/kulonleges-jogrend> (2019)
- Balázs TIMÁR: Challenges facing the civil justice system in Hungary in the context of the coronavirus pandemic. In: Fruzsina Gárdos-Orosz – Viktor Olivér Lőrincz (eds.): *Legal Diagnoses. The effects of the Covid-19 pandemic on the legal system*. Institute of Legal Studies, Centre for Social Sciences, L'Harmattan. Budapest, 2020.

- András TÓTH: The impact of artificial intelligence on the administration of justice. In: *The 150th anniversary of the enactment of Act IV of 1869 on the exercise of judicial power*. The Supreme Court's ceremonial plenary session and conference. Supreme Court. Budapest, 2019.
- András TÓTH: Civil procedural law during the coronavirus pandemic. In: Gyula Bándi – Anett Pogácsás (eds.): *'Law in times of crisis' – Selected doctoral theses*. Pázmány Press. Budapest, 2023.
- Gabriella TÓTH: The rules governing electronic communication in civil proceedings in the light of codification. *Journal of Legal Studies*, 2021/6.
- István TÓZSA: E-government in Europe – Present and Future. *Management Science*, 2011/3.
- László TRÓCSÁNYI: Legal competitiveness in the light of economic and technical development. In: Klára Gellén (ed.): *Law, Innovation, Competitiveness*. Wolters Kluwer Kft. Budapest, 2017.
- Sándor UDVARY: The notarial payment order and the courts' monopoly on the administration of justice. In: Gábor Szécsi (ed.): *De iuris peritorum meritis. Studia in honorem Endre Tanka*. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Science. Budapest, 2010.
- Sándor UDVARY: New Civil Procedure Code – New Structure. *Advocat*, 2017/1-2.
- Sándor UDVARY: The legal regulation of non-human agents (intelligent systems) – robots, dedicated systems (self-driving cars). In: Árpád Olivér Homicskó (ed.): *The Impact of Digitalisation on Specific Areas of Law*. Károli Gáspár University of the Reformed Church, Faculty of Law and Political Science. Budapest, 2020.
- Sándor UDVARY: Civil procedural law in times of crisis. In Balázs Bodzási (ed.): *Crisis and Law*. Proceedings of the Hungarian Lawyers' Association 2023. Hungarian Lawyers' Association. Budapest, 2023.
- Sándor UDVARY: Remedies in a crisis – a crisis in remedies? *Journal of Legal Studies*, 2024/1.
- Álmos UNGVÁRI – Dávid HOJNYÁK: The response of certain Member States of the European Union to the coronavirus pandemic, with particular regard to the special legal measures introduced by the states examined. *Miskolc Law Review*, 2020/1.

- Ágnes VÁRADI: The application of the concept of access to justice in crisis situations. *Miskolc Law Review*, 2023/1.
- Imre VARGA: The realisation of the right of access to the courts in the light of the digital court programme. In: Mário Certicky (ed.): *Innovative private law solutions in the service of socio-economic progress*. Association of Private Law Lecturers. Szeged, 2020.
- András ZS. VARGA: *From ideal to idol? The dogmatics of the rule of law*. Századvég. Budapest, 2015.
- Edina VINNAI: *On the Boundary Between Law and Language*. Gondolat Publishing House. Budapest, 2017.
- György WELLMANN – Árpád OROSZ: Resolutions of the Presiding Judges' Meeting of the Civil Division of the Supreme Court on procedural issues arising in connection with electronic communication. *Supreme Court Decisions: Court Rulings*. Journal of the Supreme Court. 2017/9.
- Zsuzsa WOPERA: The use of electronic communication and closed telecommunications networks in civil proceedings. In: Zsuzsa Wopera (ed.) *Commentary on the Code of Civil Procedure*, Volumes 1–2. Wolters Kluwer Kft. Budapest, 2016.
- Zsuzsa WOPERA: The theoretical foundations of the new Code of Civil Procedure. *Journal of Legal Science*, 2017/4.
- Zsuzsa WOPERA – Adrienn NAGY: E-connections in the civil justice system. In: Zsolt Czékmann (ed.): *Information and Communications Law*. Ludovika University Press, Budapest, 2019.
- Zsuzsa WOPERA (ed.): *Comprehensive Commentary on Act CXXX of 2016 on the Code of Civil Procedure*. Wolters Kluwer Hungary Kft. Budapest, 2023.
- László Z. KARVALICS: D'Artagnan Still Holds Out. On the Information Society, Twenty Years On. *Information Society*, 2021/1.
- Márk András ZAVACZKY: Emergency law application in enforcement proceedings. *Glossa Iuridica*, Vol. VII, Special Issue, Law and Virus, Faculty of Law and Political Sciences, Károli Gáspár University of the Reformed Church. Budapest, 2020.
- Anna ZÁMPORI: The effects of the development of digitalisation on evidence in civil litigation. *Multidisciplinary Sciences*, 2021/5.

- Zsolt ZŐDI: *Legal databases and legal source research. Machines in Law*. PhD thesis. Pécs, 2011.
- Zsolt ZŐDI: The practice of citing court judgments in the light of statistics. *Explanation of Legal Cases*, 2012/3.
- Zsolt ZŐDI: The public nature of court decisions and documents in certain common law countries and in the courts of the EU. *Infocommunication and Law*, 2013/2.
- Zsolt ZŐDI: Patterns of reference to previous cases in court judgments. *MTA Law Working Papers*, 2014/1.
- Zsolt ZŐDI: Law and legal science in the age of big data. *State and Legal Science*, 2017/1.
- Zsolt ZŐDI: The database of court judgments as Big Data. *Statistical Review*, 2017/5.
- Zsolt ZŐDI: The impact of digitalisation on the legal profession. *Economy and Law*, 2018/12.
- Zsolt ZŐDI: Courts and technology. *Judicial Review*, 2020/1.
- Zsolt ZŐDI: The pandemic, the legal sphere and technology – How did legal systems weather the pandemic, what role did technology play in this, and how lasting will the changes be? *In Medias Res*, 2020/2.
- Zsolt ZŐDI: *Platform Law*. National University of Public Service, Ludovika University Press. Budapest, 2023.

Other sources

The Charter of Fundamental Rights of the European Union

Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank – Annual Growth Survey 2016, 26 November 2015, COM(2015) 690 final, page 14

Council conclusions of 29 April 2011 on the call for the introduction of the European Case Law Identifier (ECLI) and a minimum set of uniform case law metadata (OJ 2011 C 127, p. 1)

Communication from the Commission – Annual Growth Survey 2013 COM(2012) 750 final

https://eur-lex.europa.eu/resource.html?uri=cellar:6c2222b6-73b4-4a6f-9483-5323de2c5cf8.0022.02/DOC_3&format=PDF, p. 16

Downloaded: 6 September 2024

Council Conclusions ('Access to justice – Harnessing the potential of digitalisation') (2020/C 342 I/01)

<https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=OJ:C:2020:342I:-FULL>

Downloaded: 6 September 2024

Commission Communication (The digitalisation of justice in the European Union: A toolkit of opportunities) {SWD(2020) 540 final}

<https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=CELEX:52020DC0710>

Downloaded: 6 September 2024

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

The European e-Justice Action Plan for the period 2019–2023

<https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=celex-%3A52019XG0313%2802%29>

Downloaded: 8 September 2024

The European e-Justice Strategy for 2024–2028

<https://data.consilium.europa.eu/doc/document/ST-15509-2023-INIT/hu/pdf>

Downloaded: 8 September 2024

Regulation (EU) 2023/2844 of the European Parliament and of the Council of 13 December 2023 on the digitisation of judicial cooperation and access to justice in cross-border civil, commercial and criminal matters, and amending certain legal acts in the field of judicial cooperation

Directive (EU) 2023/2843 of the European Parliament and of the Council of 13 December 2023 Directives 2011/99/EU and 2014/41/EU of the European Parliament and of the Council, Council Directive 2003/8/EC, and Decisions 2002/584/JHA, 2003/577/JHA, 2005/214/JHA, Council Framework Decisions 2006/783/JHA, 2008/909/JHA, 2008/947/JHA, 2009/829/JHA and 2009/948/JHA

The EU Justice Scoreboard 2013.

https://commission.europa.eu/document/download/e6cdc21d-1729-4e49-a9b6-c262fb003338_en?filename=justice_scoreboard_2013_en.pdf&prefLang=hu

Downloaded: 6 September 2024

EU Justice Scoreboard 2014.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?-qid=1555419819123&uri=CELEX:52014DC0155>

Downloaded: 6 September 2024

EU Justice Scoreboard 2015.

https://commission.europa.eu/document/download/ec5e4e78-11ac-41ceb2e6-8c61183495f6_en?filename=justice_scoreboard_2015_en.pdf&prefLang=hu

Downloaded: 6 September 2024

EU Justice Scoreboard 2016.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1555419683920&uri=CELEX:52016DC0199#footnote6>

Downloaded: 6 September 2024

EU Justice Scoreboard 2017.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1555419637816&uri=CELEX%3A52017DC0167>

Downloaded: 6 September 2024

EU Justice Scoreboard 2018.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=CELEX:52018DC0364>

Downloaded: 6 September 2024

EU Justice Scoreboard 2019.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?qid=1562062740889&uri=CELEX:52019DC0198>

Downloaded: 6 September 2024

EU Justice Scoreboard 2020.

<https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=CELEX:52020DC0306>

Downloaded: 6 September 2024

EU Justice Scoreboard 2021.

<https://eur-lex.europa.eu/legal-content/HU/TXT/PDF/?uri=CELEX:52021DC0389>

Downloaded: 6 September 2024

EU Justice Scoreboard 2022.

https://commission.europa.eu/document/download/123138e5-f651-44e4-963e-65b721c4f5e7_en?filename=eu_justice_scoreboard_2022.pdf&prefLang=hu

Downloaded: 6 September 2024

EU Justice Scoreboard 2023.

https://commission.europa.eu/document/download/db44e228-db4e-43f5-99ce-17ca3f2f2933_en?filename=Justice%20Scoreboard%202023_0.pdf&prefLang=hu

Downloaded: 6 September 2024

EU Justice Scoreboard 2024.

https://commission.europa.eu/document/download/84aa3726-82d7-4401-98c1-fee04a7d2dd6_en?filename=2024%20EU%20Justice%20Scoreboard.pdf&prefLang=hu

Downloaded: 6 September 2024

The 2022 Rule of Law Report, page 11

https://commission.europa.eu/publications/2022-rule-law-report-communication-and-country-chapters_en?prefLang=hu

Downloaded: 8 September 2024

Recommendation No. R (84) 5 of the Committee of Ministers of the Council of Europe on guidelines on civil procedure to facilitate the administration of justice (adopted by the Committee of Ministers on 28 February 1984 at the 367th meeting of the Ministers' Deputies)

Resolution Res(2002) 12 of the Committee of Ministers of the Council of Europe

Compendium of “best practices” on time management of judicial proceedings, CEPEJ, 8 December 2006

Compendium of “best practices” on time management of judicial proceedings. 4.10. https://rm.coe.int/16807473ab#_Toc153700523

Downloaded: 5 September 2024.

<https://www.coe.int/en/web/cepej/country-profiles>

Downloaded: 9 September 2024

<https://www.coe.int/en/web/cepej/cepej-work/evaluation-of-judicial-systems>

Downloaded: 9 September 2024

<https://www.coe.int/en/web/cepej/cepej-work/quality-of-justice>

Downloaded: 9 September 2024

<https://www.coe.int/en/web/cepej/cepej-working-group-cyber-just>

Downloaded: 9 September 2024

<https://www.coe.int/en/web/cepej/cepej-work/saturn-centre-for-judicial-time-management>

Downloaded: 9 September 2024

<https://www.coe.int/en/web/cepej/cepej-national-correspondents>

Downloaded: 9 September 2024

<https://www.coe.int/en/web/cepej/cepej-work/network-of-pilot-courts>

Downloaded: 9 September 2024

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

<https://www.coe.int/en/web/cepej/european-cyberjustice-network>

Downloaded: 9 September 2024

<https://www.coe.int/en/web/cepej/towards-a-better-evaluation-of-the-results-of-judicial-reforms-in-the-western-balkans-dashboard-western-balkans->

Downloaded: 10 September 2024

https://www.coe.int/en/web/cepej/justice-dashboard-eap/-/asset_publisher/IpqkU7qYgoK4/content/launch-of-the-justice-dashboard-eastern-partnership-project

Downloaded: 10 September 2024

European judicial systems CEPEJ Evaluation Report – 2022 Evaluation cycle (2020 data)

<https://rm.coe.int/cepej-report-2020-22-e-web/1680a86279>

Downloaded: 10 September 2024

Opinion No. 14 of the Consultative Council of European Judges: Opinion No. (2011) 14 of the CCJE

<https://rm.coe.int/168074816b>

Downloaded: 9 September 2024

2022–2025 CEPEJ Action Plan: ‘Digitalisation for a better justice system’

<https://rm.coe.int/cepej-2021-12-en-cepej-action-plan-2022-2025-digitalisation-justice/1680a4cf2c>

Downloaded: 10 September 2024

Guidelines on online alternative dispute resolution (ADR)

<https://rm.coe.int/cepej-2023-19final-en-guidelines-online-alternative-dispute-resolution/1680adce33>

Downloaded: 10 September 2024

Services and solutions: transcription of recordings

<https://www.administraciondejusticia.gob.es/-/soluciones-textualizacion-de-grabaciones>

Downloaded: 10 September 2024

swr.de: The Higher Regional Court of Stuttgart uses artificial intelligence in diesel lawsuits

<https://www.swr.de/swraktuell/baden-wuerttemberg/stuttgart/olg-stuttgart-mit-ki-gegen-flut-von-dieselklagen-100.html>

Downloaded: 10 September 2024

Doing Business 2008 Hungary, The International Bank for Reconstruction and Development / The World Bank, Washington DC, 2007.

<https://documents1.worldbank.org/curated/en/460631468282570406/pdf/425750WP0Doing10080Hungary01PUBLIC1.pdf>

Downloaded: 29 July 2024.

Doing Business 2009. The International Bank for Reconstruction and Development / The World Bank, Washington DC, 2008.

<https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB09-FullReport.pdf>

Downloaded: 29 July 2024

World Bank Group, Global Indicators Briefs No. 25, 22 December 2023, 2,

<https://documents1.worldbank.org/curated/en/099825001082425972/pdf/ID-U1f91ae60616eb614fd61866c1278bcc8c700e.pdf>

Downloaded: 19 September 2024

The Concept for the New Code of Civil Procedure – The Concept adopted at the Government’s meeting held on 14 January 2015 (hereinafter: the Concept)

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

<https://2015-2019.kormany.hu/download/6/42/40000/20150224%20PP%20koncepti%C3%B3.pdf#!DocumentBrowse>

Downloaded: 5 September 2024

National Information and Communications Strategy 2014–2020, p. 131

<https://2010-2014.kormany.hu/download/b/fd/21000/National%20Information%20and%20Communications%20Strategy%202014-2020.pdf>

Downloaded: 19 August 2024

National Digitalisation Strategy, 2022–2030. Page 89

<https://cdn.kormany.hu/uploads/document/6/60/602/60242669c9f12756a2b-104f8295b866a8bb8f684.pdf>

Downloaded: 24 August 2024

Report of the President of the National Judicial Office, first half of 2012, pp. 42–45

<https://birosag.hu/beszamolok/az-orszag-os-birosagi-hivatal-el-nokenek-beszamoloja-2012-i-felev>

Downloaded: 9 March 2024

Report of the President of the National Judicial Office for 2013, p. 168

<https://birosag.hu/beszamolok/az-orszag-os-birosagi-hivatal-el-nokenek-2013-evi-beszamoloja>

Downloaded: 19 August 2024

The 2017 Report of the President of the National Judicial Office

<https://birosag.hu/sites/default/files/2018-10/beszamolo2017.pdf>

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<https://www.theguardian.com/commentisfree/article/2024/jul/20/the-observer-view-on-the-global-it-crash-lessons-must-be-learned-from-crowd-strike-fiasco>

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<https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>

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List of abbreviations

Abbreviations of legislation and other regulations:

Pp. 1952	Act III of 1952 on the Code of Civil Procedure
XII. Ppn.	Act XXX of 2008 amending Act III of 1952 on the Code of Civil Procedure and certain related acts
Abtv.	Act CLI of 2011 on the Constitutional Court
Beisz.	OBH Instruction 17/2014 (23 December) on the Uniform Rules of Document Management for the Courts
Judges Act	Act CLXII of 2011 on the legal status and remuneration of judges
Courts Act	Act CLXI of 2011 on the Organisation and Administration of the Courts
BÜSZ	Decree No. 14/2002 (1 August) of the Ministry of the Interior on the rules governing court proceedings
Ctv.	Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceedings
DAP	Act CIII of 2023 on the digital state and certain rules governing the provision of digital services
Ejhtv.	Act CXXVII of 2019 on the amendment of certain acts in connection with the establishment of single-tier district administrative procedures
TFEU	European Union Treaty on the Functioning of the European Union
E-Government Act	Act CCXXII of 2015 on the general rules governing electronic administration and trust services
Fmhtv.	Act L of 2009 on the order for payment procedure

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

GDPR	Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC
Gyptv.	Act LXX of 2020 on expedited proceedings for compensation for damage caused by a criminal offence or for damages
Infotv.	Act CXII of 2011 on the Right of Informational Self-Determination and on Freedom of Information
Jsznytv.	Act XCII of 2021 on the Register of Legal Entities and the Registration Procedure
Repeal Act	Act LVIII of 2020 on transitional rules relating to the cessation of the state of emergency and on epidemic preparedness
Corona Act I	Act XII of 2020 on measures against the coronavirus
Corona Act II	Act CIX of 2020 on measures against the second wave of the coronavirus pandemic
Corona Act III	Act I of 2021 on measures against the coronavirus pandemic
Amendment I	Government Decree 229/2020 (25 May) amending Government Decree 90/2020 (5 April) on the amendment of certain rules of the penal system in connection with the declaration of a state of emergency
Amendment II	Government Decree No. 182/2021 (16 April) amending Government Decree No. 112/2021 (6 March) on the reintroduction of certain procedural measures applicable during a state of emergency
Pevtv.	Act XCIV of 2021 on the enforcement of financial compensation in connection with the protracted nature of civil proceedings
Pp.	Act CXXX of 2016 on the Code of Civil Procedure
Ptk.	Act V of 2013 on the Civil Code

Old Bszi.	Act LXVI of 1997 on the Organisation and Administration of the Courts
Veir. I.	Government Decree No. 74/2020 (31 March) on certain procedural measures applicable during a state of emergency
Veir. II.	Government Decree No. 112/2021 (6 March) on the reintroduction of certain procedural measures applicable during a state of emergency
Vesz. r. I.	Government Decree No. 40/2020 (11 March) on the declaration of a state of emergency
E m e r g e n c y Decree II.	Government Decree No. 478/2020 (3 November) on the declaration of a state of emergency
E m e r g e n c y Decree III	Government Decree No. 27/2021 (29 January) on the declaration of a state of emergency and the entry into force of emergency measures

Other abbreviations:

ADR	alternative dispute resolution
AHKAT	Central Database of Anonymous Decisions
BETFR	Electronic Court Information and Notification System
BH	Court Decision (published in the publication 'Decisions of the Supreme Court')
BHGY	Collection of Court Decisions
BHT	Internal Decisions
BIIR	Integrated Court Information System
CCJE	Consultative Council of European Judges
CDCJ	European Committee on Legal Co-operation
CEPEJ	Council of Europe European Commission for the Efficiency of Justice

DIGITAL TRANSFORMATION OF THE HUNGARIAN COURTS

CEPEJ - GT - CYBERJUST	The Working Group on Cyberjustice and Artificial Intelligence Working Group on Cyberjustice and Artificial Intelligence
CEPEJ - GT - EVAL	Working Group on the evaluation of judicial systems Working Group on the evaluation of judicial systems
CEPEJ - GT - QUAL	The Working Group on the Quality of Justice Working Group on the quality of justice
CEPEJ - SATURN	Working Group on Judicial Time Management Working group on judicial time management.
CSR	country-specific recommendations
DIAT	Digital Knowledge Action Plan
ECLI	European Case Law Identifier
ECN	European Cyberjustice Network
EDIW	European Digital Identity Wallet
EFER	Electronic Payment and Settlement System
eIDAS	Electronic Identification, Authentication and Trust Services
ECHR	European Court of Human Rights
EJTN	European Judicial Training Network
EKINT	Eötvös Károly Institute of Public Policy
EKOP	Operational Programme for e-Government under the New Hungary Development Plan
ECJ	Court of Justice of the European Union
HMCTS	Her Majesty's Courts and Tribunals Service
ICT	information and communications technology
CJ	Judicial Support System
KAÜ	Central Authentication Agent
KKSZB	Central Government Services Bus

KÖFOP	Operational Programme for the Development of Public Administration and Public Services
LIR	Registry Office System
MOKK	Hungarian Chamber of Notaries
NDÁP	National Digital Citizenship Programme
NIS	National Information and Communication Strategy
p.	page
OBH	National Judicial Office
OIT	National Council of the Judiciary
PACER	Public Access to Court Electronic Records
PC	personal computer
PHARE	Poland – Hungary: Assistance for Restructuring the Economy
ÚIR	Client Document Access System
ÜKE	the project entitled ‘Digitisation of Client Relations in Certain Court Proceedings’
VEKOP	Competitive Central Hungary Operational Programme
VIR	Management Information System
WHO	World Health Organization

The gradual and ever-increasing spread of digitalization is now an everyday phenomenon. This is no different in the field of the judiciary, but the path leading to today's digital courts is the result of decades of development and significant advancements. This volume explores the milestones of the digital transformation in the courts, while presenting, from multiple perspectives and with an international outlook, the challenges that courts—particularly in civil litigation—must face on a daily basis as a result of continuous and explosive technological development.