



DIGITAL TECHNOLOGIES IN THE JUDICIAL SYSTEM OF THE KYRGYZ REPUBLIC

BISHKEK, KYRGYZSTAN
2023



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Introduction

Digital technologies in judicial proceedings are becoming more widespread in many countries around the world. The possibility to apply to court without visiting the court in person, to participate in court proceedings remotely using technical devices, including modern technical devices and gadgets available to the vast majority of the country's residents, the use of artificial intelligence in the preliminary preparation of court decisions - can fundamentally change the very nature of exercise of citizens' rights to access to justice, increase the legal proceedings transparency and effectiveness of judicial protection, significantly facilitate the work of judges and court staff, and make the work of judges and court staff easier. Thus, thanks to digital technologies, the court cases processing time is reduced, citizens are provided with quick remote access to judicial information, government costs for financing the judiciary are saved, the time and personal expenses of citizens forced to visit court buildings due to the need to submit and receive various documents are reduced, to be personally present in the courthouse and participate in trials, hundreds of which are scheduled every day in all 78 district and oblast (regional) courts of the country. This creates ample opportunities to ensure that the justice system is accessible to citizens, provides access to information on the courts' activities, and ensures openness of the judicial system.

Introduction of digital technology into the country's judicial system has become an urgent need. In such conditions, the absolute human right to judicial protection cannot be exercised rapidly and effectively, which reduces public confidence in justice as one of the three most important institutions of the state, designed to protect democratic values in the country, strengthen the protection of the citizens' rights and freedoms, and develop the rule of law principle¹.

Currently, ensuring information openness and publicity of court proceedings is one of the priority areas of development of the judicial system. In accordance with the Constitution, the Kyrgyz Republic is proclaimed a state governed by the rule of law, one of the characteristics of which is a judicial system capable of effectively protecting the interests of citizens and organizations. The development of the rule of law presupposes that the general public has access to the work of the judiciary. At the same time, it should be taken into account that openness of the court proceedings and accessibility of citizens to information on the professional activities of judges influence the formation of trust in the court and justice.

¹ <https://internetpolicy.kg/2021/10/12/of-giip-razrabotal-analiz-zakonodatelstva-kyrgyzskoj-respubliki-na-predmet-nalichija-norm-regulirujushhih-ispolzovanie-audio-video-fiksacii-avf-sudebnyh-zasedanij/>

In the Kyrgyz Republic, in recent years, realizing the advantages of digital solutions, the Supreme Court has been actively making efforts to introduce digital services in judicial proceedings, but certain insensitivity of procedural legislation to digitalization, excessive legislative regulation of procedural forms, actions and procedures does not allow the judicial system to independently test and introduce digital services in judicial practice in a progressive mode, following other countries.

This analysis is aimed at identifying in the legislation those shortcomings in procedural norms that prevent the full and effective exercise by citizens of their constitutional right to resort to judicial protection, which should be ensured within reasonable time and by an impartial court.

During the review, a number of normative legal acts were examined, including:

- 1) Constitution of the Kyrgyz Republic;
- 2) The Constitutional the Kyrgyz Republic Law "On the Status of Judges of the Kyrgyz Republic";
- 3) Constitutional the Kyrgyz Republic Law "On the Kyrgyz Republic Supreme Court and Local Courts";
- 4) Criminal Procedure Code of the Kyrgyz Republic;
- 5) Code of Civil Procedure of the Kyrgyz Republic;
- 6) Code of Administrative Procedure of the Kyrgyz Republic;
- 7) Criminal Executive Code of the Kyrgyz Republic;
- 8) the Kyrgyz Republic Law "On the Constitution of the Kyrgyz Republic";
- 9) the Kyrgyz Republic Law "On Judicial Self-Government Bodies";
- 10) the Kyrgyz Republic Law "On the Status of Court Bailiffs and Enforcement Proceedings";
- 11) the Kyrgyz Republic Law "On Probation";
- 12) the Kyrgyz Republic Law "On Mediation";
- 13) the Kyrgyz Republic Law "On Normative Legal Acts";
- 14) Decree of the Kyrgyz Republic President "On the State Target Program "Development of the Justice System of the Kyrgyz Republic for 2023-2026" dated 3 March 2023, No. 47;
- 15) Regulations "On the "Court" Automated Information System" approved by Order of Chair of the Kyrgyz Republic Supreme Court, dated 7 December 2021;
- 16) Provisional Regulations on the Unified Crime and Offence Register approved by the Kyrgyz Republic Government Resolution dated 21 December 2018, No. 602;
- 17) The procedure for application and accounting of the probation clients approved by the Kyrgyz Republic Government Resolution dated 31 December 2018, No. 666;

18) Regulations on the procedure for maintaining the Unified Offences Register approved on 21 December 2018, No. 03;

19) Concept of audio-video recording of court sessions and videoconferencing approved by Order of the Chair of the Kyrgyz Republic Supreme Court on 14 July 2023;

20) Instruction on the use of the System of audio, video recording of court sessions and provision of materials of audio, video recording of court sessions to the process participants and their representatives approved by Order of the Judicial Department under the Kyrgyz Republic Supreme Court dated 20 December 2018, No. 781, as amended by Order of 20 December 2020, No. 663.

21) Regulations on the operation of the software and hardware complex (SHC) of audio and video recording of court sessions approved by Order of the Director of the Judicial Department under the Kyrgyz Republic Supreme Court dated 22 April 2021, No 188.

22) Regulation on the use of AVR SHC and receipt of user and technical support approved by Order of Director of the Judicial Department under the Kyrgyz Republic Supreme Court dated 22 April 2021, No. 188.

The existing legal framework has been reviewed for compliance with the goals of enhancing citizens' access to justice, ensuring transparency and openness of the judiciary system, the effectiveness of mechanisms for the protection of citizens' rights and freedoms, and ability of the judiciary system to independently test new digital solutions and implement them in judicial practice to enhance digital interaction between citizens and local courts and the Supreme Court, reduce the time required for consideration of court cases, improve the efficiency of legal proceedings and trust in the judicial authority.

Besides, to determine the current capabilities of the technological systems of the judiciary system and their compliance with provisions of KR current legislation, the technical specifications and documentation of the systems were reviewed, and the basic functionality was examined, and expert interviews with developers and users of the systems were conducted and a roadmap for the systems development was discussed.

Review of international practice in the use of digital technologies in the judicial system.

Republic of Kazakhstan

Legislation of the Republic of Kazakhstan recognizes a digital document as evidence on the same footing as other evidence. The criminal procedural and civil procedural legislation of the Republic of Kazakhstan provides for a digital form of legal proceedings. Thus, the possibility of conducting legal proceedings in a digital form is established by Articles 42-1 of the Criminal Procedure Code and 133-1 of the Code of Civil Procedure of the Republic of Kazakhstan¹. Laws of the Republic of Kazakhstan also provide for the possibility of drafting, filing and submitting documents in the digital form, including petitions, requests, filing of lawsuits, applications, submission of powers of attorney, expert opinions, minutes of court sessions, comments to the minutes of court sessions and all other documents. The Republic of Kazakhstan legislation also provides for the possibility of wide use of digital signatures when approving or certifying documents. According to the Supreme Court, 92.5 per cent of all court cases in the country are now digitally recorded².

As part of digital legal proceedings, investigative bodies send materials in cases of minor severity to the courts only in digital form. This significantly accelerates consideration of criminal cases, provides a unified record of criminal offenses and their perpetrators, and decisions on them taken during the pre-trial investigation.

The digitalization of court proceedings also provides for use of the "Court Office" service, which enables receiving the court services in a single window format. The court office makes it possible to send more than 100 types of digital appeals to the court. The service allows to see the registration of the appeal, its status in court, get the court ruling and even audio-video recording of the session. It significantly saves on paperwork, postage and travel costs for representatives. The above information system also contains a mobile version of the digital service, which provides access to court documents anywhere in the world where there is internet. Since 2020, this service has been supplemented with a new functionality - authorization and signing of applications by QR code, which allows authorization and signing of documents through a gadget. Court notices are sent by SMS-notification, digital mail and use of the court office. The video-conferencing mobile version allows citizens to participate remotely in court proceedings even while abroad. You can connect to the service via any device and receive a court confirmation of its identification. In 2017, the Supreme Court launched a

¹ www.zan.kz

² <https://sud.gov.kz/rus/massmedia/blagodarya-cifrovizacii-kazahstan-zanimaet-4-e-mesto-v-doing-business-po-obespecheniyu>

situational center, which accumulates all information about the state of legal proceedings in the country, which makes it possible to quickly find and correct possible failures in the courts work. The Situation Center monitors the courts activities by 750 basic indicators, including court proceedings, case management, information security, and the use of audio-video recording.

In addition, various software products are currently being introduced in Kazakhstan, including a service that allows analyzing court cases and predicting the court case outcome using the artificial intelligence technology. The use of spatial data has been emphasized in the administration of justice. Thus, the Court-Gis information system contains all address data of courts, lawyers, mediators and notaries in various regions of Kazakhstan.

Under the above services, the service of apostilling official documents issued by judicial authorities is also available. You can apply for this state service through the portal "E-Government" or NAO "Government for Citizens".

In Kazakhstan, elements of artificial intelligence have been introduced since 2022. The system is capable of analyzing millions of court rulings. The software is trained to understand court decisions, compare them with each other, identify anomalies and predict the outcome of civil cases. When using the software, when a claim is received, the judge has access to judicial practice in similar cases, including those cases that are appealed through the appellate and cassation procedures. Further, the process of authorizing private bailiffs' orders restricting travel abroad is robotized. Artificial intelligence also forms court orders for maintenance of minor children¹.

Republic of Uzbekistan (Uzbekistan)

In Uzbekistan, criminal, civil, economic and administrative cases are considered with the use of audio and video recording devices in accordance with Article 19 of the CPC, article 208 of the CCP, Article 165 of the Code of Economic Procedure, and Article 143 of the Code of Administrative Procedure.

Under article 19 of the CPC: "Criminal proceedings in all courts shall be public, except when this is contrary to the interests of protection of the state secrets and when sexual offences are being prosecuted. On the initiative of the court or at the request of participants in the criminal process, public criminal proceedings in courts may be held using audio and video recordings as well as videoconferencing. The use of a videoconferencing system in a closed court session shall not be allowed, and no audio or video recording of such session shall be made."

¹ <https://jusscriptum.ru/%D1%81%D1%83%D0%B4%D1%8C%D1%8F%D0%BC-%D0%BA%D0%B0%D0%B7%D0%B0%D1%85%D1%81%D1%82%D0%B0%D0%BD%D0%B0-%D0%BF%D0%BE%D0%BC%D0%BE%D0%B3%D0%B0%D0%B5%D1%82-%D0%B8%D1%81%D0%BA%D1%83%D1%81%D1%81%D1%82%D0%B2/>

According to Article 208 of the CPC: “On the initiative of the court or at request of the trial participants, audio or video recording of the court session may be held. Public court sessions can be held via videoconference. Participation in the court session by videoconference shall be equal to direct participation in the court session held verbally.”

According to article 165 of the CEP: “The case shall be heard at the court session. The court session can be held via videoconference. Audio- or video recordings of court proceedings may be made at the court’s initiative or at the request of participants of economic proceedings.”

According to Article 165 of the CAP: The case shall be heard at the court session. Court session can be held via videoconference. On the initiative of the court or at the request of participants of administrative proceedings, audio or video recording of the court session may be conducted.”

Russian Federation

In the Russian Federation (hereinafter - the RF), the state automated system “Justice” has been created and operates. Since 2017, this system has been operating the “e-Justice” module, which enables filing an application to the general jurisdiction federal courts in digital form, attach a package of documents (evidence) and track the case progress.

The Russian Federation legislation establishes the use of information technology at various stages of judicial proceedings. These technologies are used in the following activities: filing documents to the court; sending court notices; preparing and processing cases using digital documents; preparing judicial rulings in the form of digital documents; transferring court rulings and their digital copies. Digital justice encompasses a wide range of tools, including court information websites, information-sharing platforms, online access to the current status of court cases, videoconferencing systems and others¹.

Special attention should be paid to the use of information services of justice in arbitration courts. Thus, the following systems are currently in operation in arbitration courts:

- The “Electronic guard” information system. The service allows tracking information about new events or documents related to the case, and scheduled or postponed meetings. By subscribing to the service, the user has access to updates concerning a specific arbitration dispute (by case number) or its participants (by name of legal entity, TIN or MSRN). Notices of changes are sent to users by digital mail, and information about them is available to the user also on the service website. The service contains a function that provides the ability to give comments and notes to the cases to which the user is subscribed.

¹ <https://simankov.com/news-and-events/gas-pravosudie-i-drugie-servisy/>

- Information system Bank of Arbitration Court Decisions (BACD). BACD provides access to the archives of court decisions and other acts on cases that have been tried by the Russian Federation arbitration courts of all instances. BACD provides the possibility of searching in various ways: by the document text, by type of dispute, by category of dispute, by participant of the case (full name, TIN or MSRN), by name of the court, by number of the case or judicial ruling. In cases where the user is not aware of the exact parameters of the case, the list of decisions allows additional filtering of the case by date, status of its consideration (completed/incomplete), type of document (decision, ruling, appeal, cassation, etc.). The intelligent text search system allows you to search and find documents containing both certain phrases and references to specific articles of normative acts. The documents publication is fully automated and all court rulings (except for the closed cases) are published on the portal within 24 hours of their adoption.

- Information system "Court Sessions Calendar". The calendar of court sessions ensures prompt provision of information on court sessions scheduled for a particular date and court adjournments to the participants of court proceedings. The system contains information on the judge who adopted the act on scheduling the trial, time and venue of the trial, names of the parties involved in the case, case number.

- The service "Arbitration Cases Card Index" (ACCI) - allowing the user to find the relevant court case without knowing its number, or to familiarize with a group of cases with similar parameters (name and other information about the case participants, name of the judge, name of the court, date of the case registration in the system). The ACCI system also has a function to filter cases by category: administrative cases, civil cases, bankruptcy cases, court orders. The court case card contains information about submitted legal statements, complaints and petitions, information about the current status of the case.

Service "My Arbitrator". This service allows a participant in court proceedings to submit documents online by registering with the service or authorizing through a unified identification and authentication system. The service enables filing certified digital document samples or digitally signed digital documents directly.

The service also allows to view case files digitally. Remote access to digital documents, scanned versions of documents, case files and audio recordings of court proceedings is provided¹.

- Service of audio and video recording and webcasting of court sessions. In arbitration courts, audio-video recording covers 100 per cent of court proceedings, except where audio-video recording is not mandatory.

¹ <https://topuch.com/minobrnauki-rf-fgbou-vo-udmurtskij-gosudarstvennij-universitet/index.html>

Estonia

Estonia has a digital court proceedings information system (e-toimik - digital proceedings information system), which enables the initiation of court proceedings, filing of documents and appeals in civil and administrative proceedings. Procedural documents are filed using a digital signature. In the field of criminal proceedings, there is also the possibility of submitting documents regarding court proceedings.

The process of bringing an action before the court is carried out through the completion of special forms, which simplifies the procedure and makes the judicial system more accessible. The forms may vary depending on the type of case and petition, but the format remains the same. Access to the system is provided via ID card or mobile identifier (Mobile-ID). Users only have access to their cases and data by logging in with their personal ID¹.

The national information system X-Road is used to ensure the safe transmission of data. Court decisions, determinations and summonses can also be digitized through the information system, automatically recording the date of their opening. Alternatively, they can be delivered via the digital mail of the participant who should notify the court of their receipt.

In the Republic of Estonia, audio recording of court proceedings in criminal cases is provided for in the Criminal Procedure Code (Art. 156 of the CPC). The court may also videotape a court session or part thereof. Audio or video recordings of a court session or court action shall be kept in digital format and may be used to supplement and clarify the court session record. No corrections may be made to the audio and video recordings. Audio or video recording of a court session may not be made if: (1) immediately before the court session or during the session, it is discovered that recording is technically impossible, and if the court is convinced that holding the session without audio or video recording is appropriate and consistent with interests of the proceedings parties; (2) the session takes place outside the court premises; (3) the session is held to announce the court session.²

In civil proceedings, the Estonian courts take minutes of court sessions in typewritten or computerized form or record them on a digital medium in such a way that a written reproduction of the minutes is ensured (Article 51 of the CCP). In accordance with Article 52 of the CCP, a court session or other procedural action may be initially fully or partially recorded on audio, video or other data carrier. Court proceedings may not be recorded if: 1) before the session or during the session it becomes clear that recording is technically

¹ https://online.zakon.kz/Document/?doc_id=33588044&pos=93;-46#pos=93;-46

² USAID and IDLO program to increase public confidence in the judicial system in the Kyrgyz Republic “Analytical report on the study of the practice of using hardware and software complex audio-video recording (AVR) by courts and the availability of its results to participants in trials”.

impossible; 2) the session is held outside the court premises; 3) the session is held without participation of a party and the court leaves the claim without consideration, adjourns the case or award judgement on the case by way of written proceedings; 4) the session has been announced to declare the court decision. Article 350 of the CCP provides for the possibility of holding a court session in the form of a procedural conference (remote session) using the videoconferencing technology.¹

Georgia

Since 2007, the media had been prohibited from taking photographs or recording court proceedings. Audio recordings could only be made with permission of the presiding judge. In March 2013, amendments were made to legal acts to make courtrooms open to the media and video recordings.

In accordance with the enforced amendments in the legislation, each court session is recorded by the audio and video recording systems installed in courtrooms. Besides, the court should provide the parties with access to audio, video recordings upon request. Copies of the audio recordings shall be provided to the parties on request within 3 days. Video recordings may not be distributed. If the court determines to partially or fully close the court session, the parties shall be obliged to give a signature on non-disclosure of the audio, video recording. The court session secretary shall keep minutes of the court session. At least one closed-circuit television (CCTV) camera is installed in each courtroom for video recording of sessions. The audio recording is carried out by the court secretary. The audio and video recordings of the court are stored in digital format. There is a computer in the courtroom, which the court secretaries have access to.²

Moldova

In 2009, all courts in the country were provided with the necessary audio-recording equipment. Since February 2009, audio recording of court proceedings has been provided for by law and has been mandatory since the beginning of 2011.

The audio recording of court sessions is made either through audio recording sets connected to the FEMIDA software when the session is held in the courtroom or through voice recorders when the session is held in the judge's office. The program automatically records the time (hours and minutes) of each stage of the process specified by the secretary. In addition, the program allows saving in the system the minutes of interrogation of witnesses, experts and other participants of the process. Copies of the audio recording are

¹ Ibid..

² <https://rm.coe.int/1680700f18>

provided to the parties and the judge at the end of the court process. The audio recordings are stored on the court's server.

During the court session, the secretary shall make an audio recording and prepare a written summary of the minutes, indicating all the events of the trial and the participants testifying. Another important aspect is that during the recording, the secretary controls the quality of recording in headphones. If it is found that the system is malfunctioning and the record is defective, the secretary shall immediately notify the presiding judge of the instance. In that case, there were two options: either the session is continued using a manual protocol or, in exceptional cases, the session is postponed.

If a voice recorder is used, the secretary transfers the audio recording of the court session from the voice recorder to the computer, and then to the instance server. The secretary stores the audio recordings in a secure file on a server, accessible only by the judge and the relevant secretary, and the person responsible for information technology in the court, who is appointed by order of the presiding judge.

After completing the dossier, the secretary shall copy the digital audio recordings of the court sessions onto a CD and transfers them to the office along with the case.

To ensure the completeness of the protocol audio and/or video recording or other technical means shall be used at the court session. The fact of using these means to record the course of the court session shall be noted in the minutes (CCP and CPC of the Moldovan Republic).

Republic of Korea

In South Korea, court proceedings are recorded by audio or video devices. Since 1 January 2015, the Korean Supreme Court switched from a traditional court recording system to a digital mandatory system, with some exceptions. A digital recording of all testimony in the form of a recorded audio file on a tangible medium shall be filed with the official court minutes. In the same year, the Supreme Court published and distributed the "Audio Recording in the Courtroom Manual", ordering all courts to follow it when compiling an audio recording of the court session minutes.

Besides, the digital court procedure is enshrined in the Law "On the Constitutional Court of Korea" since 2009, and in a special by-law - Rules of use of digital documents in the procedure of rendering a court decision. The Digital Room of the Constitutional Court was established in July 2013. This system allows visitors to learn what is happening in the courtroom through screens, and shows public court proceedings using cameras and broadcast equipment

through online VOD services open to the public and a streaming video service for internal use.¹

In the Republic of Korea, in order to ensure transparency of legal proceedings, ensure citizens' access to justice, and increase the effectiveness of the protection of human rights and freedoms, digital legal proceedings are also actively used. The main provisions for conducting proceedings in digital format are provided for in the following legal acts:

- Law of the Republic of Korea “On the Use of Digital Documents in Civil Proceedings”;
- Act of the Republic of Korea on the Use of Digital Documents in Simplified Proceedings;
- Law of the Republic of Korea “On Digitalization of Criminal Proceedings”².

The Law “On the Use of Digital Documents in Civil Proceedings” provides for the possibility of using digital documents, their submission through the digital data processing system, and the signing of documents by digital signature. In some cases, documents in digital format are required. This Law requires the mandatory use of digital signatures when submitting documents to the court and obliges judges and court staff to prepare documents in digital form. It also establishes a list of court disputes that should be conducted only in digital format, including:

- cases considered under civil proceedings;
- cases considered under administrative proceedings;
- family disputes;
- disputes on protection of intellectual property rights;
- bankruptcy cases;
- disputes relating to execution of court decisions.

It should be noted that the judicial system of the Republic of Korea has a digital data processing platform. The platform is used to submit all documents (*claims, complaints, petitions, etc.*) in a digital form.

Criminal legislation also provides for the mandatory use of digital documents in simplified proceedings. At the same time, the Criminal Procedure Code of Korea provides for simplified proceedings in cases of minor gravity. According to the Law of the Republic of Korea “On the Use of Digital Documents in Summary Proceedings”, it is necessary to obtain consent of the defendant in order to consider a criminal case under summary proceedings. In pre-trial proceedings, the defendant gives his or her consent to consideration of the case in the simplified proceeding in form of a digital document by registering in the Korean Criminal Justice Service (hereinafter

¹ <http://english.court.go.kr/>

² <https://www.law.go.kr/>

referred to as CJS) information system. Other provisions of the Law require that all pre-trial and trial documents be digitized and recorded in the CJS, including all court acts, interrogation reports, decisions on the choice of preventive measure, examination reports and other documents prepared at the investigation stage¹.

The purpose of the Law “On Digitalization of Criminal Procedure” is to achieve speed, fairness and transparency in criminal proceedings, to increase accessibility of justice for citizens by promoting digitalization of the criminal justice procedure. The Law establishes the obligation of criminal justice authorities to make every effort to implement the necessary institutional improvements for digitalization of the criminal justice process and development of relevant information systems. In doing so, criminal justice agencies should comply with standards for the distribution of systems for the digitalization of the criminal justice process and mutually cooperate to ensure the stable management of those systems. The Law establishes a plan for the digitalization of criminal justice, which includes the implementation of issues relating to:

- identification of key areas for the introduction of digitalization in the field of criminal matters;
- bodies and structure for the implementation of digitalization in the field of criminal legal issues;
- selection and development of documents to be digitized;
- volume of the criminal justice information to be shared;
- improvement of relevant laws and legislative systems in connection with the introduction of digital technologies in the criminal legal sphere;
- ensuring fundamental rights, including disclosure of information, and measures to protect information in digital criminal proceedings.

United States of America (USA)

Back in December 2009, the Conference of State Court Administrators adopted the Policy “Digital Recording: New Ways of Recording.” They determined that stenography is the predominant method of compiling court minutes in the USA. While stating that the “current methods of maintaining court session minutes have served the courts well”, the policy paper identified a number of challenges associated with using this method in creating, producing, accessing, and preserving the record, and described the opportunities that digital recording offers as an alternative to the traditional method.

¹ https://elaw.klri.re.kr/eng_service/lawView.do?lang=ENG&hseq=22535

In the paper, they called on courts to develop standards, including describing equipment requirements, ensuring its security, how to interact with the equipment, and how to store, back up, retrieve, transcribe, certify, and edit the data, ensuring public access to it.

Further, in recommending that state courts move to digital recording, they asked the National Center for State Courts to develop comprehensive model standards to guide the use of digital recording technology.

In September 2013, the National Center for State Courts published a manual "Creating a Record. Use of digital recording". The manual addressed all issues related to the use of digital recordings (Management, organization, structure, procedures, best practices in the use of digital recording technology, technological standards, etc.)

In the courts, the issues of maintaining one or another record of a court session by the court itself are left to the states. Today, audio and video recording of court proceedings can be held in most U.S. states, in various levels of court, and in some of them for a long time. Federal appellate courts, for example, have discretion whether or not to allow video recording during proceedings. The U.S. Supreme Court has traditionally prohibits videotaping its proceedings, despite most citizens' support for such an idea. However, it has audio-recorded all of its proceedings since 1955, and since 2010, it has posted audio recordings of the parties' arguments on its website every Friday.

Thus, in the US, there are various methods of court minutes, and several variations and combinations of methods. These methods include: manual transcription, mechanical transcription, computerized transcription, real-time transcription, analog audio recording, digital audio recording, video recording, verbatim voice recording. The more recent of these approaches, especially digital audio recording, real-time recording, are undergoing continuous technological improvements and refinements to improve accuracy, and performance in transcription production and process protocol¹.

The coronavirus epidemic has forced many governments to adopt quarantine measures to prevent the infection spread. As a result, many companies started to work remotely. These measures have affected the courts, which are also trying to work through Skype, Zoom and other platforms.

Experts state that the introduction of remote sessions has been long overdue, and in the current pandemic situation, remote sessions via videoconferencing are a primary need.

¹ Л. А. Прокудина «Секретарь судебного заседания: современный статус и перспективы совершенствования деятельности (российский и зарубежный опыт)»./ L.A. Prokudina "Court session secretary: modern status and prospects for improvement of activity (Russian and foreign experience)"

In the US, videoconferencing was introduced only in California, Texas and New York. The judicial system in the country is less centralized, with the result that such matters are the competence of each state administration.

In California, for example, all trials were closed due to coronavirus, except in the most urgent cases. Against this background, on 28 March 2020, the state government unanimously supported interim directives to introduce remote justice in the region. The directive required courts to use videoconferencing and telephone communications for remote speeches, court reports, and interpretation in proceedings.

In Texas, 400 of the state's judges registered accounts with Zoom, and a webinar was held for them, teaching judges how to set up the program, create YouTube channels, and remotely conduct court sessions and broadcast them live on the Internet. During the webinar, even advice was given on how to dress for a video conference, how to position the camera correctly, what kind of background to make for a speech, etc.

Republic of Austria (Austria)

Austria is recognized as the undisputed leader in equipping the judicial system with information and communication technologies in Europe, where digital communication between courts and participants in the process appeared as early as in 1990 as a means of communication with the parties. With successful implementation of this mechanism, Austria has become the first country in the world to establish a digital legal link between actors in the judicial system. Since 1997, the Austrian justice has been testing voice recognition systems. Since 2009, there has been a website with information on all the opportunities provided by the judicial system. Since 2011, all courts have been equipped with videoconferencing systems.

The year of 2018 marked the beginning of active use of artificial intelligence elements, in particular to facilitate data recording and optimize internal workflows. Automatic routing of all incoming documents of the Austrian judicial system is performed to analyze incoming documents and extract metadata, categorize scanned documents and prepare proposals for their description. Digital file management uses automatic metadata ingestion and consistent file management with consistent data processing. To update the database information system, automatic recognition, depersonalization and publication of the content of information sources, in particular court decisions, is applied.

Each court has the staff engaged in technical preparation of court sessions (testing of recording devices, preparation of tangible media, checking microphones, cables, speakers, etc.). These functions are primarily the responsibility of court secretaries and administrative staff. The role of judges

in relation to preparation of the protocol is not active. As a consequence, court secretaries prepare the equipment for operation, monitor them during the court session, make copies of records, etc.

Kingdom of Spain (Spain)

In Spain, the Fujitsu ARCONTE digital court recording system is the market leader in court recording systems, which has enabled more than 2,800 courtrooms in 434 courts across the country to simplify and modernize the way court cases are documented by automatically collecting and storing court records¹.

This program enables courts to seamlessly and securely make audio-video recording, and catalog, store, share and digitally distribute all documentation produced during court sessions and trials, and to operate faster, more transparently and cost-effectively, ensuring compliance with strict mandatory data requirements in jurisdictions where courts are required by law to record and save court proceedings. This significantly accelerates the administrative processes. As courts move toward paperless digital processing, a cloud-based solution offers a reliable and powerful audio and video recording platform to replace traditional documentation methods while maximizing data security and integrity.

Article 229 of the Organic Law "On the Judicial System of Spain" provides for the possibility of telematic execution of certain actions, and the adopted Royal Decree 16/2020 established, that the telematic form is the preferred means of judicial action during an emergency and within three months of its cancellation.

However, there were no instructions, guidelines, rules for the implementation of remote sessions, and therefore, on 27 May 2020, the General Council Standing Commission of the Judiciary of Spain approved the "Guidelines for the Conduct of Digital Trials", in which it defined guidelines and recommendations for conducting remote court sessions, by using the video conferencing technologies.

Republic of Singapore (Singapore)

The Singapore Supreme Court's Digital Transcription System (DTS) uses various technologies to create an integrated system to facilitate audio recording of court proceedings. The DTS system allows the Supreme Court to transcribe the proceedings almost in real time. The system also allows for the synchronization of audio recordings with comments made by judges during sessions. Judges also have access to the feature of searching and playing the necessary parts of the audio record.

¹ <https://www.fujitsu.com/emeia/about/resources/news/press-releases/2017/emeai-20171025-fujitsu-supports-streamlined-judicial.html>

Thus, the international experience of introducing technological innovations in courts shows that the use of audio and video recording means for automatic recording is considered to be one of the successful trends in the development of judicial proceedings - it is a clear result of justice meeting the challenges of the time and based on the rule of law. The use of audio and video recording of court sessions has a number of advantages over traditional court reporting methods:

Ensuring the principles of transparency, openness, transparency and access to justice.

Reliability of information (date, time, course of the court session are recorded).

Recordings can be used as evidence, in case of violation of procedural rules. It will become much easier to identify errors by the judge or others involved in the process.

The minutes will fully reflect what is happening, eliminating the possibility of errors as well as different interpretations.

Ensuring order in the course of the judicial process.

The possibility of providing the minutes of the court session to the parties without its preparation.

The possibility to receive and work with digital audio recording of court proceedings on digital media in the office of the judge and secretary.

Reduction of time for consideration of cases, due to the possible elimination of the procedures of familiarization with the minutes and consideration of comments to it.

The possibility of faster search of minutes or certain episodes carried out by various parameters.

Keeping complete data on a network repository as a first step towards creating unified digital archives.

Possibility of sound notification of participants in the process.

Besides, the use of videoconferencing technology in the context of the pandemic had clearly demonstrated the need for its introduction. The use of videoconferencing seems to be the only way to securely ensure the attendance of participants in the proceedings, albeit remotely. Of course, the introduction of such a remote participation mechanism fully complies with the basic principles of procedural legislation and better guarantees the right of citizens to judicial protection.

Analysis of the current Kyrgyz Republic legislation in the field of legal proceedings

Criminal Procedure Law

The Criminal Procedure Code of the Kyrgyz Republic (hereinafter - CPC) is the main normative legal act in the legislation system that establishes norms and rules that ensure a balanced and fair criminal justice process. The current CPC was adopted on 28 October 2021 and being a relatively new act provides for a number of provisions for the application of digital solutions in criminal proceedings. It should be noted that the importance of digitalizing criminal proceedings lies in the effective implementation of the objectives and principles of criminal procedure provided for in chapter 2 of the CPC. These include, in particular, the principles of access to justice and the protection of human and civil rights and freedoms in criminal proceedings. To this end, the CPC lays the foundation for further expansion of the use of digital technology systems in the justice administration. Thus, the conceptual framework of the CPC provides for the use of digital evidence, the conduct of a digital case, the filing of complaints, petitions and other documents in digital form. The concept of a digital case, established by paragraph 68 of Article 5 of the CPC, includes criminal proceedings, which are carried out in digital form, indicating the case progress, starting with registration of the crime, pre-investigative inspection, investigation, trial and execution of punishment, formed by information of the relevant departmental information systems with the ability to generate procedural documents in paper form, certified by means of a digital signature, accumulated in the Unified Crimes Register. This provision of the CPC creates a basis for courts of all instances to apply digital solutions in legal proceedings. In general, the existence of these norms also has an important basis for ensuring the transparency of criminal proceedings and increasing citizens' access to justice.

However, further in the special part of the CPC these issues are reflected only fragmentarily. This concerns the filing of complaints and motions in digital form, audio-video recording and logging of court sessions, the use of videoconferencing, and the use of digital signatures by judges and other participants in court proceedings. Thus, the CPC provides for the use of digital devices to ensure the safety of participants in the process, in particular, article 78, paragraph 1, part 1, in order to protect the best interests of children of the victim or witness, provides for the possibility of interrogation by means of devices that change appearance and (or) voice, interrogation through an opaque screen or interrogation at a distance. Also, paragraph 3 of part 1 of Article 79 provides for the possibility of interrogating a witness via video link.

Article 89(3) of the CPC recognizes the equivalence of a digital document with written evidence. Equivalence of the digital document is important in the recovery of criminal case materials, which will have positive impact on the observance of deadlines and will significantly accelerate the case consideration time at different stages of criminal proceedings. Such positive results are important for citizens involved in criminal proceedings in terms of timely protection of their constitutional rights and freedoms.

The application and enforcement of preventive measures also involves the use of digital devices. Thus, under Article 113, paragraph 3, audio-visual, digital and other technical aids may be used to exercise control during home arrest in accordance with the procedure established by the Cabinet of Ministers.

In accordance with Part 2 of Article 143, the criminal case materials are restored using the preserved criminal case materials, including in digital format, which is also important in ensuring human and civil rights in criminal proceedings, since it allows the restoration of criminal case materials in a shorter period of time and accordingly make an appropriate decision in a timely manner. In particular, this may affect the rights of the accused and the defendant.

Although the CPC conceptual framework provides for the possibility of filing complaints digitally, Article 126(2) provides for complaints to be filed orally and in writing and does not stipulate the possibility of filing them digitally. However, as far as motions are concerned, it is possible to file them digitally. Thus, in accordance with Article 264(6), petitions of participants in criminal proceedings addressed to the investigating judge and rulings of the investigating judge may be produced in the form of a digitally signed document. At the same time, documents in digital form may be attached to the petition. At the same time, the legislator, establishing in some cases the possibility of filing petitions and complaints in digital form, did not provide for the possibility of familiarization of participants in criminal proceedings with case materials in digital format. In this regard, at the legislative level, it is important to disclose the concept of a digital case with the establishment of access to case files of participants in criminal proceedings using digital solutions. One of the options for resolving this issue could be the introduction of a personal account in digital platforms used in criminal proceedings with further regulation of its use at the subordinate legislation level.

One of the objectives of criminal proceedings is the prompt and complete investigation of crimes. Effective implementation of this task requires the use of digital technologies. In order to accomplish this task, the CPC (Article 201) provides for the possibility of conducting remote questioning using the video communication technical aids.

Thus, the remote interrogation significantly accelerates implementation of procedural actions, since in this case the physical presence of a victim or witness is not required. Under such circumstances, citizens have the opportunity to participate in criminal proceedings despite their location or state of health.

The CPC also provides for the use of videoconferencing at the trial stage. Under Article 290, the court, at request of the persons involved in the case or on its own initiative, has the right to interrogate participants in the proceedings by videoconference (remote interrogation), about which it issues a reasoned ruling (determination). Persons referred to in paragraph 1 of this article may be interrogated by videoconference in the following cases:

- inability to bring a person directly to the court at the place where the criminal case is being considered and for health or other valid reasons;
- need to ensure the safety of the individual.

In addition, paragraph 4 of this Article allows for the interrogation in a court session of an accused (convicted) person held in a penal enforcement institution, and an investigative isolator of the national security bodies in cases of:

- the need to ensure safety of the court session participants;
- impossibility to bring to court an accused (convicted person) held in a penal enforcement institution.

Implementation of the principles of equality and competition, comprehensiveness and objectivity of the evidence examination is partly ensured by the proper recording of all actions of the process participants at the court session. To this end, Article 310 provides for the recording of court proceedings by audio and (or) video recording aids. In cases where audio-video aids are used at a court session, the secretary shall make a brief written record. Article 311 of the CPC also provides for the possibility for the court proceedings participants to familiarize themselves with audio and (or) video recordings. Regarding these norms, it should be noted that despite the fact that the CPC recognizes the equivalence of digital documents with written ones, it does not provide for the possibility of keeping a record in digital format.

An important digital tool in the criminal process is the unified crime register (hereinafter -UCR). The UCR is of particular importance in pre-trial proceedings. In accordance with Article 146, the UCR automatically records the date, on which the information was entered and assigns a corresponding number. The inquiry body, investigator, prosecutor, investigative judge, judge, penitentiary authority, officials of state bodies subject to the requirements of the CPC, promptly and fully enter or transfer to the UCR the

relevant information provided for by the Regulations on the UCR, which is approved by the Prosecutor General.

Civil procedure legislation

The Kyrgyz Republic Code of Civil Procedure among other legislative acts, including the above-mentioned legal acts, is a fundamental act regulating in detail the rules of legal proceedings on civil and economic cases. The Code allocates a separate (25) chapter to the specifics of economic cases, however, these specifics do not concern implementation of digital solutions.

Unlike the Criminal Procedure Code adopted in October 2021, the basis of the Code of Civil Procedure was drafted in 2017, therefore it was compiled without taking into account the newly created and improving day by day digital capabilities that make it possible to significantly facilitate and simplify the numerous stages of legal proceedings, both for the courts themselves and for the legal proceedings participants. In the past period from May 2019 to April 2023, the CCP has been amended 8 times, aiming to improve certain elements of court proceedings not related to the use of digital solutions. Only one of the amendments (dated 11 April 2023) initiated and supported by the Supreme Court, established important innovations:

- The court's ability to receive evidence beyond traditional means through videoconferencing;
- the protocol is compiled in computerized, digital (including digital audio recording), typewritten or handwritten ways;
- a statement of claim can be filed with the court by filling out a form posted on the official website of the relevant court on the Internet, which is signed with a digital signature in the manner established by the Kyrgyz Republic legislation.

However, these amendments are of a half-hearted nature and therefore have not been widely used in judicial practice. Thus, obtaining evidence through videoconferencing and taking minutes of the court session is subject to the court's discretion, which in practice is often reduced to the fact that in the absence of sufficient technical conditions, judges prefer traditional ways of obtaining evidence, taking minutes, and this entails both distrust to the minutes' content and additional burdens for the process participants. The digital form of filing a claim should become a primary form rather than an elected one, with the traditional form provisionally retained and applied only when it is impossible for the plaintiff to apply to court digitally. Consequently, it is necessary to legislatively expand and prioritize the areas of application of digital forms of interaction between citizens and the courts, which, in turn, should provide for greater opportunities for the use

of digital technologies at all stages, starting with filing of a statement of claim and evidence, conducting the court proceedings and ending with the sending of a court decision in digital format.

Article 25 (paragraph 7) of the Constitutional Law "On the Supreme Court and Local Courts" states that "the President of the Supreme Court shall ensure functioning of the automated system for formation of court compositions and distribution of cases and court materials among judges, and in case of technical failure of the automated system shall independently form the court compositions and distribute cases and court materials". However, the digital distribution of cases among judges means only the initial stage; it is more important to extend the use of automated systems to all stages of civil and economic court proceedings.

Thus, some elements of digital solutions are reflected in the procedural law and are gradually beginning to be used in practice, but at present, civil proceedings in terms of the need for citizens to visit court buildings in person, starting from filing a statement of claim and including the receipt of a court decision, are predominantly traditional, but outdated, in terms of already available digital solutions:

- plaintiffs and defendants, in general, personally visit courts to apply (Chapter 1 of the Code of Civil Procedure);
- statements of claim and all attached documents shall be submitted to the court in writing in typewritten form (Article 134);
- court summonses shall mostly be sent by post in writing by registered letter with notification, although Article 128 of the CPC provides for the possibility of sending summonses by digital mail, but this possibility is burdened by the need to reflect the fact of its receipt by the addressee;
- as a rule, court sessions are held in court buildings, with the parties and other participants in the proceedings attending in person (Articles 158 and 159 of the CCP);
- Documents issued by the court is also made on paper and is handed over to the court process participants, as a rule, when visiting the court in person;
- Chapters 1, 5-7, including Articles 158, 159 require the parties and participants of the process to participate in person in the proceedings, which take place only at the courthouse.

These norms and a number of related articles clearly need to be supplemented and amended to improve the accessibility and quality of justice. In particular, it concerns the possibility to use digital solutions in civil proceedings, including the submission of documents to the court (statements of claim, complaints, petitions, drafting protocols, expert reports, consultations of a specialist), drafting and signing of court acts, familiarization

of the court process participants with the case materials, tracking the case progress, stages of the proceedings. By introducing digital innovations in judicial proceedings, the Council of Judges and the Supreme Court will have opportunities to apply the tried and tested digital innovations using their own regulatory framework.

It seems that currently a favorable situation has been created for reforming the Code of Civil Procedure, as evidenced by the program approved by the Presidential Decree of 3 March 2023 “On the State Target Program “Development of the Justice System of the Kyrgyz Republic for 2023-2026”, subgoal 3 of which provided for a number of very important measures to expand the use and effectiveness of digital technologies in the justice system. Including:

- modernization of “Court” AIS;
- modernization of the registry of court rulings, the digital system for receiving acts remotely;
- introduction of a simplified procedure for filing claims digitally;
- creation of the “Virtual Court” AIS, “Personal Account” mobile application and a number of other important initiatives.

Administrative procedural legislation

The Administrative Procedure Code (hereinafter - APC) is the main act that establishes the procedure of legal proceedings on disputes arising from administrative-legal (public-law) relations, procedural principles and rules of consideration and resolution of these disputes in court. The main provisions related to the application of digital solutions in administrative proceedings were introduced in 2020. In particular, amendments were made concerning the issues of notification of participants in administrative proceedings, filing a lawsuit, audio-video recording, videoconferencing. Thus, Article 104 of the APC provides for the possibility of notifying participants in administrative proceedings by sending messages by digital mail. Article 111 of the APC provides for the possibility of filing an administrative claim in digital format, by filling out a form posted on the official website of the relevant court in the Internet information and telecommunications network, which is signed with a digital signature. At the same time, the APC does not provide for the possibility of filing complaints, motions in digital form. For example, an appeal, cassation appeal are filed in writing only.

Article 123 of the APC provides for the possibility of participation in a court session of the process participants by means of videoconferencing. At the request of the persons participating in the case, they can participate in the court session. In accordance with Article 50, explanations of persons participating in the case and witness statements obtained by using

videoconferencing shall be recognized as evidence on an equal basis with other evidence.

The APC also provides for the possibility of using an audio-video recording system at court sessions. Thus, in accordance with Article 198, to ensure the completeness of the minutes, the court may use audio and video recordings in the court session or when a separate procedural action is performed outside the session. This provision provides for the possibility of digital minutes. At the same time, this article does not provide for the possibility of signing minutes with a digital signature. Besides, according to Article 199 of the APC, persons participating in a case may comment on the minutes only in writing.

Legislation on enforcement proceedings

Digitalization of the enforcement of court decisions is an important step in the administration of justice. Application of digital solutions undoubtedly reduces the time of execution of court decisions, allows to ensure transparency of execution of decisions and accessibility of the process participants to this stage of legal proceedings. The issues of digital solutions are legislated in 2021. Thus, the Kyrgyz Republic Law "On Enactment of the Criminal Code of the Kyrgyz Republic, the Criminal Procedure Code of the Kyrgyz Republic, the Code of the Kyrgyz Republic on Offenses and Amendments to Certain Legislative Acts of the Kyrgyz Republic" adopted on 28 October 2021 amended the Criminal Executive Code of the Kyrgyz Republic, the Kyrgyz Republic Law "On the Status of Bailiffs and Enforcement Proceedings" and the Kyrgyz Republic Law "On Probation".

Article 2 of the **Criminal Executive Code of the Kyrgyz Republic** (hereinafter - CEC) introduced a provision on digital surveillance. However, the implementation of digital surveillance is not disclosed in other articles of the CEC. Similar definition is contained in the **Kyrgyz Republic Law "On Probation"**, but this law does not reveal the essence of digital surveillance. Digital surveillance is an important tool in ensuring and protecting human rights. Digital surveillance, by limiting the freedom of movement of the convicted person, prevents committing of new crimes. From the point of view of protecting the convicted person's rights, digital surveillance is an alternative to detention and affects the psychological and emotional state of the convicted person. Moreover, digital surveillance increases the transparency of the sentence enforcement. The Law provisions describing the forms and types of probation and the procedure of probation supervision do not address the application of digital surveillance. Issues of application of digital surveillance are reflected in the **Procedure for application and accounting of probation clients approved by the Kyrgyz Republic Government Resolution 31 dated December 2018, No. 666** (hereinafter - the Procedure). The Procedure provides

for the conditions of application, the digital surveillance, the rights and obligations of the probation supervision clients. So, digital surveillance is applied using the technical aids of the "Probation" automated information system (hereinafter - «Probation" AIS). "Probation" AIS is designed to collect, process and store data on probation clients, measures taken on them under the Kyrgyz Republic criminal legislation, and the Kyrgyz Republic legislation in the field of offenses. "Probation" AIS is used in the registration and statement on the account of the probation client, in the interaction between the administration of correctional institutions and the probation authorities, and in the digital surveillance of the probation client. At the same time, despite the existence of such a tool as "Probation" AIS, through which digital surveillance is applied, the Procedure does not provide for the possibility of notifying probation clients in digital form. All notifications to probation clients shall be made in writing only. Moreover, when compiling a personal file, the Procedure requires the use of written documents only. In most cases, the interaction of the correctional institutions administrations with probation authorities and courts is maintained in writing. For example, written notification of the correction institution is required when a probation client is placed on probation supervision; likewise, in the case of post-penitentiary probation for a person released on parole, the correctional institution administration sends to the probation agency copies of the judicial ruling and other court decisions certified by the stamped seal of the court for supervision. On this basis, the Procedure does not create sufficient legal conditions for application of "Probation" AIS. Moreover, the need for written exchange of documents does not ensure transparency and time saving, which also does not create sufficient conditions for the effective exercise of the rights and freedoms of probation supervision clients.

The Kyrgyz Republic Law "On Mediation" does not contain norms providing for the use of digital technologies in the settlement of disputes arising from civil, family, labor and criminal law relations.

The Kyrgyz Republic Law "On the Status of Court Bailiffs and Enforcement Proceedings" is the main normative legal act ensuring real, full and timely execution of court decisions. Norms containing the issues of application of digital solutions were also introduced in this Law in 2021. Thus, Article 17 of the Kyrgyz Republic Law "On the Status of Court Bailiffs and Enforcement Proceedings" refers to types of enforcement documents as resolutions issued by state bodies, local self-government bodies or officials authorized to consider cases of violations in terms of property penalties in the form of a digital document, the legal force of which is confirmed by the digital signature of the official authorized to consider cases of violations. Article 23 of this Law provides for the possibility of accepting a bailiff's ruling in digital format, signing it with a

digital signature. The Law also provides for notices to be sent to participants in enforcement proceedings by digital mail. In addition, the Law provides for the maintenance of a digital database of debtors on alimony obligations. At the same time, the enforcement proceedings themselves, which regulate directly the actions of the participants, do not contain norms providing for the application of digital solutions. Thus, the Law provides only for the written form of submission, approval, exchange of documents of participants of enforcement proceedings. Thus, an application for the acceptance of an enforcement document, a complaint against the bailiff's actions, and decisions on a complaint against the bailiff's actions shall be taken exclusively in writing. Enforcement actions of an interim nature also involve written documentation. All actions of the bailiff are accompanied by sending copies of the rulings issued.

Acts of the Kyrgyz Republic Cabinet of Ministers and local acts of the Kyrgyz Republic Supreme Court

In 2018, the Kyrgyz Republic Government approved the **Provisional Regulations on the Unified Crimes and Offences Register** (21 December 2018, No. 602), which defines a unified procedure for receiving, registering statements and reports from citizens about crimes and offences, considering other reports of incidents, as well as creating and maintaining an automated information system "Unified Crimes and Offences Register". The UCOR is used from the moment of receipt of a complaint or statement until end of the trial.

With regard to the application of UCOR in criminal proceedings, the powers of the investigating judge are important, since judicial control over the legality of actions (inaction) and decisions of the official of the inquiry body, investigator, head of the investigative group, prosecutor is of particular importance in implementation of the principle of protection of human and civil rights and freedoms. The investigating judge is a user of the UCOR. As part of the use of the UCOR, the investigating judge is required by the Provisional Regulations to enter information on the extension of the preventive measure. However, the Provisional Regulation does not contain requirements for the entry of information on other actions of the investigating judge. The investigating judge shall decide on a very wide range of issues within the scope of his/ her authority.

In the same year, the Government approved the **Regulations on the Unified Register of Violations** (dated 21 December 2018, No. 603), which establishes the procedure for the formation and use of the Unified Register of Violations, as well as the basis for information exchange carried out with its use

between the information systems of ministries, state committees, administrative departments, other state and judicial bodies, as well as local self-governments.

However, norms of the above two Regulations no longer comply with the current norms of the Criminal Procedure Code and the Code of Offenses of the Kyrgyz Republic, which were adopted in 2021.

In September 2021, by order of the Supreme Court Chair, the Regulation **On the Automated Information System “Court”** was approved, which establishes uniform rules and requirements for the cases distribution process, organizing and conducting digital legal proceedings, and the procedure for working with procedural and other documents in courts. In general, the Regulation discloses all matters relating to its application and operation.

Instruction on the use of the System of audio, video recording of court sessions and provision of materials of audio, video recording of court sessions to the process participants and their representatives, approved by order of the Judicial Department under the Kyrgyz Republic Supreme Court dated 20 December 2018, No. 781, as amended by the order of 20 December 2020, No. 663. This Instruction regulates the functions of users, terms of storing and destroying the court sessions records, issues of system checks, algorithm of actions for launching the AVR system during a court session, procedure of access to audio and video recordings of court sessions.

Regulations on Operation of the Software and Hardware complex of Audio and Video Recording of Court Sessions approved by Order of the Director of the Judicial Department under the Kyrgyz Republic Supreme Court dated 22 April 2021, No 188. This provision regulates the procedure for operation of the court session audio and video recording system and is intended for use by judges and employees of the judicial system of the Kyrgyz Republic. The Regulation describes functional duties of the judge, court secretaries, court officers in charge and IT consultants.

Regulations on the Use of AVR SHC and Receipt of User and Technical Support approved by Order of the Director of the Judicial Department under the Kyrgyz Republic Supreme Court dated 22 April 2021, No. 188. This Regulation determines the procedure for organizing the use of court session audio and video recording system, including the procedure for using hardware and software complexes, technical support of AVR SHC to ensure objective recording of court proceedings, and the procedure for obtaining user and technical support when using the AVR SHC in court sessions.

The **concept of audio-video recording of court sessions and videoconferencing** was approved by Order of Chair of the Supreme Court, dated 14 July 2023. This document contains important legal conclusions on the role of the Supreme Court in the system of public authorities and a firm intention to implement a number of important initiatives to increase citizens'

access to judicial protection, including the manifestation and accompaniment of important legislative initiatives currently being prepared by a specially created working group of the Kyrgyz Republic Supreme Court.

The place and role of the judiciary in the normative legal regulation of the court proceedings rules

Contextual (systematic) interpretation of Articles 4, 29, 30, 57, 59, p.1 of Article 61, p.2 of 73, 94, 95, 98, 99, 101, 103, 105, p.4 of Article 114 of the Kyrgyz Republic Constitution leads to the following conclusions.

State power is strictly divided into three separate and independent branches, one of which is the judiciary, as a system separate from the other branches in personnel and organizational matters.

The judiciary is formed independently of the executive branch, and subsequent activities in the justice administration are maximally protected from any influence not only from the outside, but also within the judicial system itself. Article 5 of the Kyrgyz Republic Law "On the Constitution of the Kyrgyz Republic" (2021 version) establishes that all judges retain their powers for the entire term: this rule also emphasizes the specially protected constitutional status of judges and their separate place in the state power structure.

The interrelated understanding of the constitutional provisions meaning shows that the judicial system headed by the Kyrgyz Republic Supreme Court is based on inviolability of the following principles:

1) The Supreme and local courts, as a single system, are independent of the other state power branches, since the selection and submission for appointment of candidates to the judiciary and initiation of early dismissal of each individual judge are performed through special procedures initiated by specially established bodies (the Council for Justice and the Council of Judges), which are deliberately separate from the other branches of power - the President, the Parliament and the Cabinet of Ministers;

2) in the adoption of any judicial ruling, there shall be no interference by any representative of either the executive, legislative power (including the President) or the judiciary itself (this principle is enforced by severe prosecution for its violation, including criminal liability);

3) the judicial system carries out the law enforcement functions of the state, which are exceptional in their significance - recognizing any person, including an official of the highest level, as guilty of committing an incriminated crime;

4) courts shall decide in the last instance, without appeal and with finality, any dispute between citizens, the citizen and the State, represented by any of its officials;

5) the judiciary shall on its own and independently of the executive branch formulate and defend the budget of the judiciary in Parliament.

The Constitution, consistently in the above-mentioned articles, highlights and emphasizes that formation of the judiciary, mechanisms for the

examination and verdict of court cases, control of the judicial practice, and approval of the judiciary budget should be as separate and protected as possible from the influence, first of all, of the executive power, subordinated to which are the state's main resources and a large apparatus of civil servants. This principle is derived from previous, including Soviet, experience when courts were dependent on the total command of the executive branch and its numerous officials. The judiciary should not be dependent on other branches of government and discretionary powers should be exercised by the courts without interference.

Realizing the special role of the judiciary and its decisions, Article 85 of the Kyrgyz Republic Constitution naturally vests the Supreme Court with the right of legislative initiative on issues under its jurisdiction (*previously, the Supreme Court had to ask the Government to take the initiative*). Thus, the Constitution authorizes the Supreme Court by its act to resolve certain issues arising in the field of legal proceedings in achieving the goals and objectives of justice, including the enhancement and facilitation of real access of citizens. This emphasizes the increased role of the Supreme Court in the formation and updating of the national legal system, using which the courts resolve a huge array of civil and economic disputes, which, in turn, has a tremendous impact on the economic and social efforts of the state. In other words, the judiciary is as important as the executive and plays a crucial role in the state development.

Thus, the Supreme Court is placed on a par with the executive branch, which has the traditional right to issue normative legal acts that are generally binding on state agencies and all citizens. Consequently, the Supreme Court should also have the statutory right to issue normative legal acts to achieve the goals and objectives of justice, without resorting to normative regulation through the issuance of decrees and/ or orders of the Cabinet of Ministers, as was previously the case.

According to Article 98 of the Kyrgyz Republic Constitution, the legal and organizational separation of the Supreme Court and local courts as an independent branch of government and its independence from other branches of government is also emphasized by the exclusive right to give explanations on all issues of judicial practice, which are then subject to mandatory and strict execution by all courts and judges of the Kyrgyz Republic. Such explanations are, in fact, mandatory (and not advisory, as it was earlier) also for all other involved and potential participants in court proceedings: investigators, prosecutors and lawyers, plaintiffs and defendants, victims and defendants, eyewitnesses and witnesses, experts and specialists, in short, for all citizens.

Current technical capabilities of the courts: achievements and shortcomings

In 2016, the Information Technology Institution “Adilet Sot” was established and has carried out significant work. A number of digital systems have been developed and commercialized, including:

1) Automated information system “Court”, the purpose of which is to automate all stages of judicial procedures: from the distribution of cases and the formation of the judiciary panel to the conduct of court proceedings, preparation for sessions, appointment of sessions, creation and execution of documents. The system is designed to ensure a holistic and efficient judicial process, increase productivity, and ensure transparency and accessibility of the judiciary. This system enables:

- centralized recording and control of court proceedings;
- forming a unified information space linking all court staff united by common service processes;
- carrying out the objective and prompt receipt of statistical data on cases considered, on complaints received and the work of judges and the office;
- improving the efficiency and quality of work with documents through digitization of documents;
- ensuring confidentiality by distributing access rights to documents placed in the centralized repository;

Functions that are implemented in the system:

- Ability to apply online (Digital Claims);
- Use of EDS;
- Formation of a digital case;
- Movement of digital court cases between all courts of the Kyrgyz Republic;
- Integration with other systems;
- Providing tools for quick and flexible customization of business processes (constructors) for system administrators;
- Automatic allocation of cases, without user involvement;
- Automatic scheduling of court sessions without user involvement;
- Automatic formation of a judicial panel for court hearings without user participation;
- Optimization of business processes of electronic court proceedings;
- Re-engineering the system core;
- Providing information from information systems for citizens, government agencies and others.

2) **“Enforcement Proceedings” AIS**, which is a unified information database of the Bailiff Service Division (BSD) and the Department for Monitoring the Activities of the BSD of the Judiciary Department under the Kyrgyz Republic Supreme Court. This system is designed for storing, accounting and systematization of information on the executive productions, conducted operations and actions in real time. The system is designed to increase the efficiency of court bailiffs (hereinafter referred to as CB) in the exercise of their powers in the enforcement of judicial rulings, to reduce the costs of interaction with other government agencies and to allow the JD under the Kyrgyz Republic Supreme Court to increase the transparency of bailiffs' activities through improved control and analysis of the bailiff service. This system ensures the storage and systematization of information on executive documents, execution proceedings, transactions and actions in real time. The Register is intended to increase the efficiency of bailiffs in exercising their powers in the field of processing enforcement documents, and to assist the State and the Supreme Court Judicial Department in monitoring and analyzing the work of the bailiff service.

The following functions are implemented in AIS:

- Integration and automation of the BSD with other agencies to eliminate the possibility of repeated fines and reduce transaction time.
- Automatic generation of rulings
- Generation of payment code and amount of enforcement fee
- Transfer of cases from one BSD to another.
- Integrated with information systems such as "Tunduk", "PSC", Mbank and other commercial banks in terms of notifying the citizen about the debts.

This system:

- Automates the information collection process;
- Establishes a centralized base of arrests and restrictions;
- Increases the level of cooperation between regional units of the Judicial Enforcement Service;
- Monitors the work of local divisions of the bailiff service.
- Facilitates citizens' access to information on debts;
- Increases efficiency and quality of work with documents;
- Reduces the time required to process internal queries;
- Strengthens control over execution of the enforcement proceedings;
- Creates conditions for transition from traditional paper to digital document flow;
- Ensures strict compliance with legislation requirements.

3) **Software and hardware complex “Audio-video recording” and recording of court sessions**, which is aimed at accurate recording of the course of court proceedings, automation of the process of drawing up the

minutes of the court session, providing access to digital protocols and audio and video files. According to the approved Regulation, work with the AVR SHC consists of the following subsystems:

- Audio-Video Recording (AVR);
- Videoconferencing (VC);
- Audio Video Transmission Subsystem (AVTS);
- Remote Interrogation Subsystem (RIS with ensuring unrecognizability).

The complex performs the functions of objective recording of the trial course providing access to digital records, ensuring remote interrogation and participation in the court session, online broadcasting of court proceedings. As a result of the complex work, a digital protocol is formed containing the exhaustive information about the court session, including: personal data of the participants, procedural actions (of the court session), text protocol, audio and video recording.

4) Automated Information System (AIS) “Electronic Document Management”. The headquarter of the Judicial Department under the Kyrgyz Republic Supreme Court and the Kyrgyz Republic Supreme Court were connected to the digital document management system "Infodox" to ensure working correspondence with government departments and agencies in digital format; work is underway to ensure standard office workflow and document management for interaction with government agencies and departments in digital format¹.

5) “State Register of Judicial Acts” AIS providing automation of the process of publication of judicial rulings, access to information about the cases assigned to the session, which are in court with indication of the date, time and venue of the trial, and public access to court documents on the Internet - site of the Kyrgyz Republic Supreme Court.

6) Portal “Digital Justice”. The portal is a centralized resource that provides comprehensive access to data from the information systems of the KR judicial system for various users, including individuals and legal entities. It is designed to improve the efficiency and accessibility of legal services while ensuring greater transparency in the judicial system.

Core functions:

- Register of judicial rulings: Users are able to perform in-depth search in the court records database using a number of filters and search tools.
- Court schedule: The portal offers a personalized schedule and calendar of sessions, accessible through the user's personal account and as an open service available to all.

¹ https://internetpolicy.kg/wp-content/uploads/2021/10/%D0%90%D0%BD%D0%B0%D0%BB%D0%B8%D0%B7%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D1%8C%D1%81%D1%82%D0%B2%D0%B0-%D0%90%D0%92%D0%A4_%D0%93%D0%98%D0%98%D0%9F.pdf

- Electronic agenda: Notices of the assignment of court cases are delivered to users in real time via SMS and personal account.
- Court case: Users have access to detailed information about their cases through a personal account.
- Court rulings: Access to depersonalized rulings as an open service available to all and to the original rulings is provided through the user's personal account.
- Status of the case: Users can receive updates on the status of their cases and criminal record information through a personal account.
- Database of sample applications: Users can access a database of sample statements and submit them in the future via a personal account.
- Interactive map: The portal offers a detailed map of courts and BSD.
- Exit restriction: Users can check their debt amount, exit restriction status and make online payment of debts.
- Debtor tracing: Users can get information on criminal records and case status by navigating through the personal account.
- **HJTC Digital Training Platform**, an electronic platform designed to train newly appointed judges and improve the skills of existing judges and judicial staff, which includes information about the start of training, the current status of training and records of training completed.

Since June 2022, the Platform has been put into commercial operation

In addition, a basic level of infrastructure was previously created in local courts to ensure the operation of basic information systems: sets of computer equipment were purchased to provide court staff, local area networks were installed, and qualified technical support was organized. Many courts have installed indoor and outdoor video surveillance systems and building access control systems to ensure security. A specialized website for the publication of judicial rulings (www.act.sot.kg) is also maintained and access to the courts is organized to work with the site.

In addition, the digitization of court archives is being completed; the data center of the judicial system has been put into operation; the process of connecting the Kyrgyz Republic courts to the unified domain infrastructure has been completed; a prototype of the Call-Center of the user support service has been created on the basis of the IT institution "Adilet Sot".

Ensuring confidentiality of cases and personal data

To ensure confidentiality, data carriers are encrypted using AES encryption algorithms, for information transfer VPNs with support for asymmetric encryption algorithms ECDSA or DSA with keys of 4096 or 2048 bit length are used. The system can be accessed only through a VPN from the judges' workplace.

Depersonalization of cases for publication in the public registry is mostly done manually by judges, so human error and the possibility of error (incomplete depersonalization) cannot be ruled out

Ensuring access control and integrity of information in the system

To ensure access control in systems, RBAC (role-based access control) is used, in which access to information is regulated on the basis of acquired roles with certain access rights only to the necessary information. All user activities are recorded in the system logs for subsequent auditing.

To ensure the information integrity, systems use the built-in database management system mechanisms to protect integrity including transactions, logging all changes, locks, maintaining integrity at the level of connection between tables. It also uses support for data and system versioning and code version control to quickly restore a working version of the system and data in case of failures.

System availability (continuity and incidents recovery)

Continuity of system operation is ensured in case of hardware or software failures or malfunctions, communication equipment of the system, unforeseen power outages. The following mechanisms are used to maintain the system continuity and disaster recovery:

- ability to configure backup parameters for the system components with a remote storage option;
- backup management and tracking;
- restore data to a state without contradictions in the event of software and hardware failures (including power outages, operating system errors and other problems in the working environment);
- restore data to a consistent state in the event of network software and hardware failures.

To prevent errors on the part of system users, mechanisms for managing user access rights to information are used, according to the established role model.

To ensure the possibility of recovering data lost as a result of incorrect actions of authorized employees, periodic backups of all system data have been implemented, preserving several previous versions of copies.

To ensure high availability and fast recovery from hardware failures with minimal delays in "IP" AIS, the concept of fault tolerance is used, including at least two parallel functioning nodes.

Ensuring transparency and accountability of processes

To ensure transparency and accountability of processes, several mechanisms are implemented in the systems:

Workflow automation - systems automate most workflows, eliminating manual intervention in the process. Thus, the module of automatic case allocation in the “Court” AIS automatically distributes cases based on key criteria. The assigned cases are accounted in each court's statistics block. Through the system, the statistical department of the Kyrgyz Republic Supreme Court is able to obtain a report on distributed cases in each court.

Timeline monitoring - the system tracks the timeline of cases and the history of actions. This avoids delays and additional delays in the process and timely detection and prevention of illegal delays.

Improved transparency - parties have access to information about the progress of their case, its status and actions taken.

Action auditing - the system can record user actions, providing the ability to audit and detect possible corruption or dishonest actions

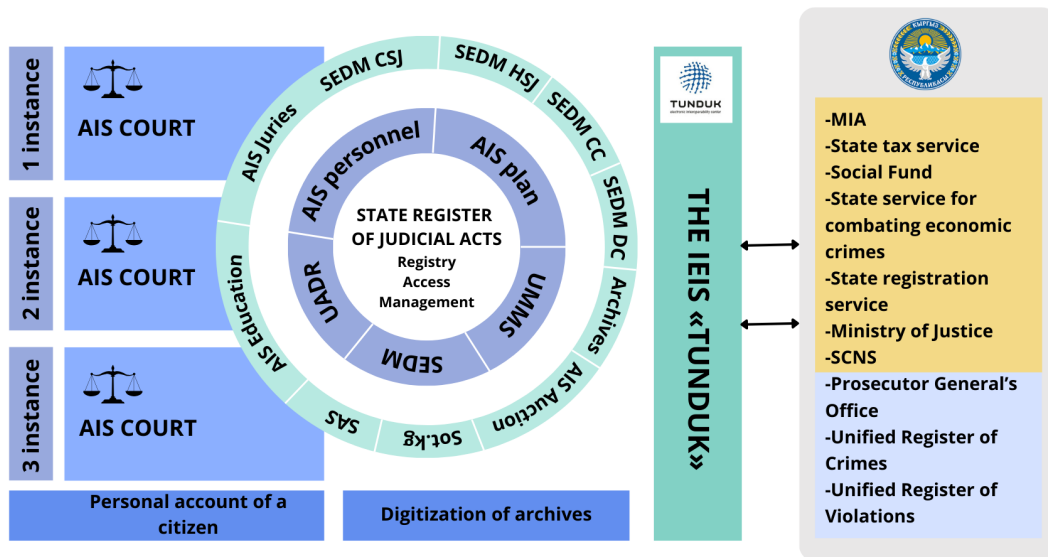
Ensuring citizens' access

The main interface between the systems and citizens is the Digital Justice portal. Currently, users can access the database of sample statements, view the registry of depersonalized court rulings, check the exist (travel) restrictions. Currently, the Personal Cabinet of a citizen is being actively developed, which will allow him/her to submit statements to any court regardless of his/her location. This functionality will allow citizens to submit statements through the Personal Account from anywhere in the world. In addition, all notices of the forthcoming court sessions, as well as copies of court decisions and minutes on the consideration of cases, will automatically be sent to the citizen's Private Office, where he/she will be able to familiarize himself/herself with the decisions in his/her case. In the future, it is planned to provide the portal with possibilities of videoconferencing (VC) for court sessions by integrating with the software and hardware complex AVR SHC and information systems on VC (remote court portal “Trueconf”) through the citizen's personal account allowing identification of participants with the help of the Unified identification system (UIS). This will allow citizens to access court sessions from anywhere in the world and eliminate case delays.

Thus, the necessary technological conditions have been created for the formation of a comprehensive system of “Digital Justice”, which will be integrated with existing nationwide information systems and platforms through the system of interagency interaction "Tunduk" (Fig. 1)¹:

¹ https://internetpolicy.kg/wp-content/uploads/2021/10/%D0%90%D0%BD%D0%B0%D0%BB%D0%B8%D0%B7-%D0%B7%D0%B0%D0%BA%D0%BE%D0%BD%D0%BE%D0%B4%D0%B0%D1%82%D0%B5%D0%BB%D1%8C%D1%81%D1%82%D0%B2%D0%B0-%D0%90%D0%92%D0%A4_%D0%93%D0%98%D0%98%D0%9F.pdf

Centralization. Formation of complex “Digital justice”



The large amount of work performed, the experience accumulated by the Supreme Court and IT institution "Adilet Sot", the created technical and technological capacity, sufficient IT-literacy of the judiciary and the staff working in "COURT" AIS, as well as the strong political will of the leadership to further digitalization of the judicial system are a significant achievement and allow to further plan the development and use of digital options from the best international practice, increasing access of citizens to judicial protection.

Findings and recommendations

The shortcomings of the current use of technology in court proceedings include, first of all, the lack of sufficient legislative regulation to pave the way for the full development of digital solutions, which should increase citizens' access to justice and reduce the length of court cases by facilitating citizens' remote access to digital services for filing a lawsuit, online participation in court proceedings and receipt of court documents.

The current legislation, including a number of constitutional laws, codes and laws regulating or affecting the citizens' access to justice, ensuring the transparency of court proceedings has a heterogeneous nature of regulation of the digital solutions application. The CPC, CCP and APC in terms of the content of the norms related to the digital solutions application are at different level of their legal regulation. The basic normative legal acts do not contain norms allowing for the active introduction of digital technology achievements into the judicial proceedings system in order to increase the effectiveness of the protection of human and civil rights and freedoms, ensure accessibility of justice, and openness and transparency of the judicial system.

Criminal procedural legislation, which is relatively new compared to civil procedural and administrative procedural legislation, contains relatively more provisions aimed at introducing digital solutions for the benefit of citizens. At the same time, it should be noted that the current CPC, although it provides for norms on the conduct of legal proceedings in digital form, does not fully disclose the possibilities of using digital solutions. Although the current provisions of the CPC provide a framework for the digital solutions application in criminal proceedings, they are clearly considered insufficient to achieve the goals of ensuring transparency of justice, improving citizens' access to justice, and the effective protection of human rights and freedoms.

It should be noted that the norm on the equivalence of digital documents with written ones, established in the general part of the CPC, is not implemented in relation to court documents. Since the procedural documents in the legal proceedings are filed and drafted only in writing. This applies to the form in which petitions and complaints are filed and court minutes are compiled. Particular attention should be paid to the fact that even when an audio-video recording system is used, the summary record of the court session is made in writing and signed by the presiding judge and the secretary. At the same time, it is not possible to compile the said documents in digital format. The ability to file petitions and complaints digitally is important in terms of improving citizens' access to justice.

Besides, it should be noted that by providing for the concept of a digital case the CPC logically indicates the possibility of conducting criminal

proceedings in digital format. At the same time, the by-laws do not regulate this issue sufficiently, which raises many questions among law enforcers. This is especially true for the actions of the investigating judge, judges of all instances and a number of other participants in criminal proceedings.

At the same time, as mentioned above, the **Provisional Regulation on the Unified Crimes and Offences Register** does not meet the requirements of the newly adopted CPC.

Civil procedural legislation also contains a number of norms that create a legal basis for further ensuring the civil proceedings transparency and increasing citizens' access to justice. However, these norms need to be updated as they leave alternative, traditional in nature, procedural forms. Thus, the CCP provisions, although allowing the use of digital solutions for filing lawsuits and other documents in digital form, keeping the minutes of court sessions and sending notices, do not make their use mandatory. This concerns the filing of lawsuits, complaints, petitions, audio-video recording and taking minutes of court sessions, the use of videoconferencing systems, and the use of digital signatures by participants in court proceedings. The vagueness and ambiguity of legal provisions regarding the use of digital forms by courts actually hinder new digital solutions development and the application of existing digital solutions in judicial practice.

The Code of Civil Procedure of the Kyrgyz Republic (CCP) does not include provisions on the mandatory use of AVR in the court session, or refer AVR to the mandatory means of recording the court session course, and does not provide for the use of AVR as the main minutes (does not contain norms on the summary minutes). Thus, the CCP should be supplemented with norms on the mandatory use of AVR (if technically sound), as traditional norms often lead to incomplete or distorted (in the opinion of one or both parties) reflection of the court session course and is perceived as a violation of the rights of citizens, negatively affects the efficiency, transparency and accessibility of justice, is an obstacle to the judiciary system digitalization.

On this basis, since the current CCP does not allow for the possibility of implementing digital solutions in court proceedings without detailed amendments to specific articles of the Code, it is necessary to consistently and comprehensively develop a package of legislative initiatives to amend and supplement constitutional laws, the CCP, and further develop draft decisions of the Council of Judges and draft resolutions of the Plenum of the Supreme Court on further digitalization of court proceedings.

Provisions of **administrative and procedural legislation** stipulating for the digital solutions application in administrative proceedings are clearly insufficient and do not contribute to improving citizens' access to justice and ensuring the transparency of legal proceedings. In general, the use of digital

solutions does not cover all stages of the administrative process. The legislator, having provided for the possibility of filing a lawsuit in digital form, did not provide for the possibility of appealing court decisions in the same way. In addition, the APC does not provide for the use of digital signatures by judges, secretaries, other participants in the process, except for the plaintiff, who uses a digital signature when filing a claim in digital form. Moreover, the APC does not contain norms recognizing the equivalence of digital documents with written ones. The use of an audio-video recording system does not fully achieve its goals either, since signing the minutes and giving comments on minutes are performed only in writing.

Another important circumstance is that the existing norms of the APC do not provide an opportunity to form (digital) minutes based on the results of the AVR, which can impartially convey what is happening in the courtroom, does not allow the possibility of interpretation of what was said, errors in the presentation, and guarantees the completeness of recording the process. Thus, AVR and digital minutes taking enable respecting all the rights of the process participants, in this regard, AVR should be a mandatory and not a discretionary provision of the administrative procedural legislation.

The Probation legislation needs further improvement. In particular, it is necessary to create sufficient legal conditions for the use of the “Probation” AIS. In particular, it should be possible for probation authorities, correctional institutions and courts to interact digitally. Along with this, the Procedure for application and accounting of probation clients approved by the KR Government Resolution dated 31 December 31 2018, No. 666 should be amended in terms of the possibility of signing documents with a digital signature and digital seal. The use of digital signatures will eliminate the need for probation authorities and correctional institutions to request written documents signed and stamped.

The Kyrgyz Republic Law “On the Status of Court Bailiffs and Enforcement Proceedings” does not sufficiently regulate the issues of application of digital solutions. In order to implement, protect the rights and freedoms of participants in enforcement proceedings, ensure access, transparency and acceleration of processes, it is necessary to make additions with regard to the application of digital solutions in enforcement proceedings. In particular, it is necessary to provide for a digital form of filing statements, complaints, making decisions, sending orders of bailiffs using digital solutions, to provide for signing documents with a digital signature.

The “Court” AIS program solves many problems in the formation of digital document flow within the court system, but it needs improvement and dissemination of digital solutions to improve citizens' access to justice. To this end, it is necessary to develop a new version of the **Regulations “On the “Court”**

Automated Information System”, which will make it possible to use the advantages of this system not only for the judiciary, but also for citizens and other participants in the court process. Namely, this provision should be as informative and user-friendly as possible, not only for the judiciary, but also include a description of services that allow citizens to take advantage of remote communication with court staff, online participation in court proceedings using videoconferencing, and other advantages that are already technically available to the first instance courts and are acceptable with the use of digital aids available to the vast majority of the country citizens.

However, there is a problem of overlap of work for specialists responsible for publication, as they have to enter the court case data in two systems. As a consequence, there is a need to automate the process of transferring acts and data on court cases and sessions from the “Court” AIS to the “SRCR” (state register of the court rulings) module, which will reduce by many times the costs of manual publication of open data of court proceedings, increase the volume of publications and reduce the number of errors compared to manual publication.

In addition, it should be noted that the current laws do not meet the requirements of the new Constitution in terms of the Supreme Court's power **to initiate and issue normative legal acts** on the improvement of judicial procedures. By such acts, the Supreme Court, within the framework of the goals and objectives defined by the codes and laws, building on the already accumulated capacities, will be able to develop, test and independently operationalize digital solutions that will consistently and without delay improve citizens' access to justice.

In this regard, it is necessary to develop a package of legislative initiatives to make amendment to the Constitutional Laws “On the Status of Judges of the Kyrgyz Republic”, “On the Kyrgyz Republic Supreme Court and Local Courts”, the Kyrgyz Republic Law “On Judicial Self-Governance Bodies”, and consequently the Law “On Normative Legal Acts” and the Law “On the Rules of Procedure of the Jogorku Kenesh (Parliament) of the Kyrgyz Republic”. The implementation of this proposal will allow the formation of legislative mechanisms for the timely creation of necessary conditions for the exercise of citizens' rights to access to justice, transparency, introduction of modern approaches in ensuring transparency and openness of the judicial system, creating best convenience, ensuring unimpeded access to the court for the protection of their rights and obtaining judicial protection, and, of course, reducing the time, labor, financial and economic costs of citizens through the use of digital technologies.

At the same time, it is important to draw attention to the fact that when revising the regulatory framework and regulatory approaches, the principle of

preserving the flexibility of legislation to meet the needs for development of digital justice should be adhered to. The study of the experience of many countries shows that excessive regulation is always a factor inhibiting development.

Recommendations

1. To overcome shortcomings in civil proceedings by introducing appropriate amendments to **civil procedure legislation**, including the need to:

- acceptance by courts of lawsuits, appeals and cassation appeals in civil and economic cases necessarily in digital format, provided that the stable operation of technical equipment is ensured;
- establishing the equal importance of digital documents and written documents;
- impute the primary value of records in digital form;
- develop a procedure to ensure the identification of a person participating in a civil or economic case when videoconferencing is used in the process course;
- introduce compulsory audio-visual recording of the court process minutes, giving it the legal status of a source of evidence, and to provide for the Supreme Court to determine the legal and technical stages of its formation and admission to the case file, electronic distribution to participants in the proceedings;
- oblige the use of a digital signature by a judge, a party to the process when submitting documents to the court;
- draw up norms requiring the court to apply remote justice in civil and economic proceedings;
- introduce the Supreme Court's right to establish the obligation to consider certain categories of civil and economic cases at court sessions without going to court, so that citizens, including participants in the proceedings, are entitled to participate in the court session by videoconference;
- determine the legally binding nature of digital forms of notification of appearance in the court session;

2. Provide a legal path for introduction of the blockchain technology, the use of big data and the application of artificial intelligence in the formation of court documents.

3. Taking into account the previously adopted revisions with regard to the application of digital solutions in criminal proceedings, it is required to introduce norms in **criminal procedural legislation** that provide for the possibility of drawing up a digital summary minutes of the court session,

petitions and complaints, and other documents with the use of a digital signature.

Based on inconsistency of the existing Provisional Regulations on the Unified Crimes and Offenses Register, it is also necessary to develop a new version of the law of the Cabinet of Ministers regulating the application of digital technologies not only in pre-trial but also in judicial criminal proceedings, including the issues of conducting judicial proceedings in digital form, the possibility of generating documents prepared by the investigator, prosecutor, investigating judge, court.

4. In order to create the necessary legal conditions for the introduction of digital technologies in **the administrative proceedings**, amendments are required to ensure:

- equivalence of digital documents with written documents;
- the possibility of filing complaints and petitions in digital form, including explanations of persons involved in the case;
- equivalence of digital evidence with written and physical evidence;
- possibility of giving expert opinions, consultations by a specialist in digital form;
- possibility of appealing the decisions of courts of the first and second instance digitally (filing appeals and cassation appeals);
- possibility of filing an administrative claim digitally;
- possibility of filing objections to a lawsuit in digital form;
- possibility for persons participating in the case to comment digitally on the court session minutes;
- possibility of a simplified process not only in writing but also digitally using digital solutions;
- possibility of presenting the rulings of courts of all instances in digital form and affixing them with a digital seal, including decisions on appealing decisions of the Council of Judges on the early dismissal of a judge from his/her position;
- use of digital signatures by all participants in the administrative process in carrying out actions in court proceedings, including actions of the judge expressed in signing decisions, expressing dissenting opinions by the judge;
- possibility to consider a case in a digital format using video conferencing systems, audio-video recording and minutes taking;
- sending court decisions in digital form by digital mail, including also the possibility of familiarizing with court decisions on a special digital platform of the judiciary.

5. As a priority, it is necessary to draft a new version of the Regulations on the "Court" Automated Information System, which will lay the legal basis for the introduction of such functions as:

- filing a claim to the court digitally and remotely, using a citizen's personal account with a section that allows for independent digital literacy;
- subsequent use of claim forms, guidelines for their completion, reflecting the sequence of actions in the process of resolving disputes in court;
- online filling of statements of claim, complaints and demands;
- free remote access to court decisions;
- availability of information on the likelihood of satisfaction of claims depending on the category of dispute;
- availability of online negotiation or online mediation tools;
- availability of tools for digital exchange of documents, evidence between the parties;
- availability of online institutions for out-of-court dispute resolution;
- other business processes that increase citizens' access to justice, reducing the time for cases consideration, and ensuring transparency of all stages of legal proceedings.
 - possibility for the Supreme Court to develop IT programs for judicial analytics and predicting the outcome of a court case;
 - other forms and methods that help to make justice in economic cases predictable and contribute to making proceedings more accessible and transparent.

6. With regard to the Supreme Court's right of legislative initiative, it is necessary to supplement the Kyrgyz Republic Constitutional Law "On the Kyrgyz Republic Supreme Court and Local Courts" with provisions that redefine the meaning of Article 85 of the Kyrgyz Republic Constitution, providing a detailed and, if possible, exhaustive list of issues that the legislator can and should refer to the Supreme Court jurisdiction, based on its expanded competence. Besides, such amendments are needed to the Kyrgyz Republic Constitutional Law "On the Kyrgyz Republic Supreme Court and Local Courts", which rediscover the content of the Supreme Court status, both within the judicial system and in general - in the state power system. In turn, such changes will entail the need to develop appropriate amendments to procedural codes, laws "On Normative Legal Acts of the Kyrgyz Republic", "On the Regulations of the Kyrgyz Republic Jogorku Kenesh ", and other normative legal acts.

7. Additionally develop and also approve:
- Technical requirements to the digital protocol ensuring completeness, structuring and qualitative reproduction (based on technical features and capabilities of the used AVR SHC and VCS - based on consultations with IT institution "Adilet Sot");
 - Regulation on the Digital Justice Portal, which also regulate the process of interaction of citizens and other participants in the court process with the judiciary authorities;

– Provide for liability for actions in case a copy of the court session recording is placed in the public domain in Internet or transferred to third parties.

When drafting legal acts, attention should be paid to the issues of digital identification of participants in the judicial process, the use of digital signatures, the procedure for forming a digital case, and the procedure for accessing digital services.

In consultation with the Supreme Court technical and practical experts, consider standardizing certain types of procedural documents to ensure their uniformity.

Consideration should be given to developing a separate instruction on court proceedings without separating paper and electronic versions.