



**AMERICAN UNIVERSITY OF
ARMENIA**

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LL.M. Program

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TITLE

The Role and Effectiveness of E-Justice in the Republic of Armenia

**Whether the E-justice system facilitates the exercise of the rights and obligations of and is
equally accessible for all its stakeholders.**

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NUMBER OF WORDS

8771

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INTRODUCTION

The Government of the Republic of Armenia appreciates the necessary role of innovative technologies in the field of justice. Nowadays, there are some problems with the exercise of the right to access to justice in the Republic of Armenia because of the overload of courts and time consuming nature of the court proceedings. So, innovative technologies can become the solution not only for courts, but for the parties participating in the case by reducing the duration of cases and providing the fulfillment of the rights and obligations of those parties.

E-justice is a specific field which refers to the use of information and communication technologies to improve access to justice, to strengthen the justice system, to increase the overall administration of law, etc. The innovative technologies can reduce the duration of the procedures, save time and money, make the best information available, facilitate control over cases, and increase the confidence of beneficiaries.

To introduce and to implement the E-justice system in the Republic of Armenia we should highlight some goals necessary to achieve.

- **Goal 1: to understand**
 - Installed base (technological, organisational and institutional)
 - International standards
- **Goal 2: to share**
 - National E-justice experiences
 - Problems emerged and solutions found
 - Critical issues still looking for proper solutions
- **Goal 3: to identify**
 - Problems that may arise from exchange of experiences
 - The role of a regional approach to E-justice
- **Goal 4: to identify viable ways to the E-justice development**
 - Share a good practice of the E-justice development

To achieve the goals mentioned above by the resolution of the Prime Minister of the Republic of Armenia Department of E-justice and Innovation Programs has been reorganized to Department of Strategic Planning and E-justice Structural Subdivision in the Ministry of Justice

of the Republic of Armenia (the “Ministry of Justice”).¹ “The Division for E-justice and Innovative Programmes of the Staff of the Ministry of Justice of the Republic of Armenia (the “Division”) develops and implements the policy in the sphere of electronic justice and the electronic governance of the Ministry of Justice, carries out activities for developing draft legal acts, strategies, concept papers, other legal acts aimed at setting up electronic governance systems, carries out activities for developing and introducing innovative solutions in the sphere of electronic governance, as well as awareness-raising programmes and training programmes for the employees of state bodies regarding the electronic systems and websites developed by the Ministry of Justice. At the same time, the Division develops and implements programmes aimed at raising the level of effectiveness in the field of provision of justice and state services through modern, innovative and alternative solutions in the justice sector.”² Meanwhile, the Division for Strategic Planning has drafted the resolution of Government of the Republic of Armenia N 1441-L of 10 October 2019 “On approving the 2019-2023 Strategy for Judicial and Legal Reforms of the Republic of Armenia and the Action Plans Deriving therefrom” Annex No 4 of which envisages the introduction to E-justice system.³ According to Annex 4 of the resolution, as mentioned above, E-justice system should consist of criminal, civil, administrative, and bankruptcy subsystems. The system should integrate the electronic systems of law enforcement, judicial and executive agencies and should ensure interoperability with the electronic systems of other relevant bodies, as well as databases. E-justice system will give the opportunity to submit documents electronically, to ensure electronic circulation of materials among all parties involved in the case, as well as among judicial agencies, to give electronic notifications, and to provide with automatic collection of statistical data.

¹ Republic of Armenia Prime Minister Resolution N 609 – L, dated 30 May 2019 “On Amending and Supplementing the Republic of Armenia Prime Minister Resolution N 704 – L, dated 11 June 2018”, Art. 1 (1).

² Ministry of Justice of the Republic of Armenia, *Division for E-Justice and Innovative Programmes*, available at <http://moj.am/en/structures/view/structure/38> (last visited 28 March 2020).

³ Republic of Armenia Government Resolution N 1441-L, dated 10 October 2019 “On approving the 2019-2023 Strategy for Judicial and Legal Reforms of the Republic of Armenia and the Action Plans Deriving therefrom” Annex 4.

An interdepartmental Committee has been set up by the resolution of the Prime Minister of the Republic of Armenia to ensure the process and introduction of the E-justice system.⁴ The first meeting of the Interdepartmental Committee on E-justice was held on November 14, 2019, chaired by Deputy Prime Minister of the Republic of Armenia Tigran Avinyan. In the first sitting “Tigran Avinyan noted that one of the most important tasks of the government is to enhance the efficiency of public administration through simplified procedures, automation and digitalization of government-provided services, as well as to ensure accountability and transparency in public administration activities, and reducing unnecessary red tape.”⁵

The mentioned system has the aim to facilitate the fulfillment of the rights and obligations of all parties involved in the case, as well as law enforcement, judicial, and executive agencies. However, there are some gaps concerning the mechanisms and accessibilities of the E-justice system, which this paper should raise and discuss.

Since not all branches of the E-justice will be discussed herein, the scope of this paper will be limited to studying the problem of the E-justice system in the Republic of Armenia. In particular, this paper includes study of the international experience of developed countries in the E-justice system, the introduction of current situation in the Republic of Armenia and one of the primary purposes of investing the E-justice system, the integrity of all its beneficiaries to the E-justice system, the facts that cause the problem mentioned above and recommendations for addressing the raised issue.

⁴ Republic of Armenia Prime Minister Resolution N 1149 – A, dated 19 August 2019 “On Creating an Interdepartmental Committee on the Development and Investment of a Unified System of Electronic Justice, Adopting Its Individual Staff and Procedures.

⁵ The Government of the Republic of Armenia, *Interdepartmental Committee on Electronic Justice Holds First Sitting*, available at <https://www.gov.am/en/news/item/9655/> (last visited 24 March 2020).

CHAPTER 1

Comparative Research of International Experience

Despite many attempts and huge amounts of money spent by various European justice systems, the E-justice is a sector in which failures are more common than successful implementations. The studies show that there are several countries to have the experience of introducing the unified E-justice system. Those countries are as follows.

The Republic of Korea: In South Korea, information technology is one of the most critical tools in the E-justice sector. Since 1992, some programs have been developed to create an e-court system. Then other systems have been merged and integrated into the e-court system for years, as a result of which now the E-justice system exists in South Korea.

Since the late 1970s, the efforts have begun and have substantially increased over the past decades to leveraging technology to improve the experience of court users, enable courts to provide more efficient services, and allow court leaderships to better manage internal operations. This approach has served South Korea well and has set it apart from many other judiciaries. Furthermore, few judiciaries have been able to accomplish similar developments, e.g. Singapore and Australia.⁶

“In 1986, the Supreme Court developed the Civil System under which a computerizing process of civil affairs is possible, and in 2002, completed the construction of the Case Management System. In 2007, the system called JUSTICE (Judge’s Unified System for Intelligent Case Management) was established for the support of judges’ trial work. By implementation of JUSTICE, total care and support for judges’ work such as scheduling trials, managing cases, and writing decisions electronically became possible. In 2008, the Court established the Supreme Court IT Center, the infrastructure for integrated operation of the judicial information system, and also built auxiliary data centers in Daejeon, Busan, and Kwangju for stable operation of the information system 24 hours a day, 365 days a year. Since

⁶ The World Bank, Heike Gramckow and Omniah Ebeid, *Leveraging Technology to Improve Service Delivery in the Justice Sector in South Korea*, available at <http://siteresources.worldbank.org/NEWSLETTERS/Images/442940-1266974197101/6807942-1457045708896/JustDevelopmentNoteFeb9Issue10.pdf> (last visited 24 March 2020).

e-Filing service for patent cases was commenced in April 2010, the Electronic Filing System was extended to the proceedings of civil cases in May 2011, family and administrative cases in January 2013, injunction cases in September 2013, insolvency cases in April 2014, and execution against property and non-litigation cases in March 2015, respectively. The computer network of the judiciary was first installed in 1995 in 28 courts which accounted 16.8% of the total 166 courts nationwide. In 2004, double ultra-speed network system was implemented in all courts. Since 2010, in order to support the E-Filing System, process for increasing net-work speed has been launched. The judicial network uses LAN (local-area network) and inter-networking. All courts, including district and municipal courts are interconnected via routers which make up a huge internal network. In addition, to maximize network efficiency, the Ministry of Security and Public Administration, public prosecutor's offices, banks and other outside facilities are exclusively connected with the court network system. To strengthen the security of the court network system, Intrusion Detection System (IDS) and Anti-Virus system have been installed. For added security while connecting to external networks, Virtual Private Network (VPN) has been in operation. Each year, judicial internal/external network bandwidth is expanded, and security is strengthened as the amount of electronic data in circulation between and in and out of the court is expected to increase, in line with the increase of e-Filings.”⁷

Furthermore, it is important to mention that the E-justice system also has Judicial Information for Foreigners and Immigrants provided by the English version of the website in South Korea.⁸

To sum up, the advantages of the E-justice system are the followings:

- ✓ 24 hours/ 7 days of access to the system.
- ✓ Simple access to the case materials without visiting the Court.
- ✓ Transparency and efficiency.
- ✓ Exclusion of material loss or injury.

⁷ Supreme Court of Korea, *History*, available at <https://eng.scourt.go.kr/eng/judiciary/eCourt/history.jsp> (last visited 29 March 2020).

⁸ JIFI, *Court of Korea*, available at <https://jifi.scourt.go.kr/foreigner/main/Main.work> (last visited, 24 March 2020).

The Republic of Estonia: “E-Estonia is an incredible success story that grew out of a partnership between a forward-thinking government, a proactive IT sector, and a switched-on, tech-savvy population. Being a pathfinder in public sector e-services meant that nothing was prepared for us – we had to cut our own trail to discover how to provide services in a form that did not yet exist, and which could be available to everyone 24/7”.⁹

In 2000, the Republic of Estonia started taking measures to create digital society. At first, it seemed insubstantial because there was no collected digital data about citizens of Estonia. Besides, the internet and even devices were not attainable to the people. So, the Government of Estonia started to invest some IT solutions and create the E-Estonia platform step-by-step. As a result, the Republic of Estonia has one of the world’s most developed digital societies.

The E-justice system was implemented about two decades ago. Estonia has the second-fastest court proceedings in the world. The e-court system consists of three components:

- ✓ **The e-File-** provides data to the information systems of court, police, jails, prosecutors, and criminal case management.
- ✓ **The Estonian court information system-** manages all court processes.
- ✓ **The public e-File portal**

“The greatest pain of Estonian courts was making sure that significant documents reached the tied parties. **The public e-File portal** opens a virtual door to the courts. In the portal, every party can start a case and access or send out documents. The initial claim can be entered through the public portal 24/7. The workflow engine delivers the necessary data to the portal for the allocated judge.”¹⁰

“Furthermore, the e-File is a central information system that provides an overview of the different phases of criminal, civil, administrative, and misdemeanor proceedings, procedural acts and court adjudications to all the parties involved, including the citizen and their representatives.

⁹ Enterprise Estonia, *E-Estonia Guide*, available at <https://e-estonia.com/wp-content/uploads/eestonia-vihik-a5-edm.pdf> (last visited 25 March 2020).

¹⁰ E-Estonia, *Factsheet E-justice, Making Justice Digital Impacts the Whole Economy, Leading to Better Public Services, Jobs for People and Initiating Business Growth*, available at <https://e-estonia.com/wp-content/uploads/2020mar-facts-a4-v04-e-justice.pdf> (last visited 25 March 2020).

It is an integrated system for proceedings enabling the simultaneous exchange of information between different parties.”¹¹

Overall, the benefits of the E-justice system in the Republic of Estonia have saved money and time, provided transparency and efficiency, better overview of proceedings, automatic circulation of materials, and detailed distribution of cases.

- “Facts and figures The average length of Estonian court civil proceedings has fallen from 156 days to 99 days in just 5 years
- Over 73,000 e-court cases sent through the court information system in 2018.
- 2nd fastest court proceedings in Europe.”¹²

The Republic of South Africa: The unified E-justice system is intended to increase the effectiveness of criminal proceedings.

“The implementation strategy of the IJS (the integrated justice system) Programme has been divided into three steps:

Step 1: Creating/upgrading departmental system capacity to support and automate business process flow:

Step 2: Integrating the criminal justice business processes: and

Step 3: Instrumentation of the criminal justice process to manage identified key performance indicators.”¹³

The IJS has excellent functionality; it includes the electronic systems of law enforcement, judicial and executive agencies, provides automatic generation of documents, as well as supplies the population with a unified database.

It is important to highlight that the persons involved in the processing will be informed about the schedules of the cases electronically.

¹¹Centre of Registers and Information Systems, *e-File*, available at <https://www.rik.ee/en/international/e-file> (last visited 25 March 2020).

¹² E-Estonia, *Factsheet E-justice, Making Justice Digital Impacts the Whole Economy, Leading to Better Public Services, Jobs for People and Initiating Business Growth*, available at <https://e-estonia.com/wp-content/uploads/2020mar-facts-a4-v04-e-justice.pdf> (last visited 25 March 2020).

¹³ Department of Justice & Constitutional Development, Progress Report: Integrated Justice System (IJS) Programme: Select Committee on Security and Justice, (31 May 2017) page 3, available at: <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/170531IJSReport.pdf> (last visited 25 March 2020).

In particular, according to the Progress Report of Integrated Justice System Programme “the Digital court schedule initiative is a quick win, [...] and will make available court schedule information for both civil and criminal matters digitally to IJS member department parties. Initially, this will be exclusively for those parties internal to IJS departments using both a mobile app accessible using the cell phone whilst in the field or utilizing a web portal available for those users that are desk bound. This means that parties will be readily able to see the scheduled dates of all cases relevant to them, across regional and district courts.

[...] In addition to providing a mobile smartphone app, as well as web portal, the digital court schedule is an essential prerequisite for the implementation of digital screens and kiosks at court houses providing visitors with information on scheduled cases for navigation to their relevant court room. Further, SMS and mobile push notifications can then be implemented, and ultimately extended to relevant stakeholders outside of the IJS member departments (e.g. SMS notifications to remind expert witnesses of due times in court).”¹⁴

“In recent years, as part of the integrated justice system programme, the department has recorded significant progress in the development of electronic systems to share docket and case information. This includes associated notifications when dockets are ready, docket requests, electronic charge sheets and the sharing of case outcomes, all enabled by a transversal hub that connects seven national departments and organisations relevant to the cluster. More than 260 000 cases were processed during the first half of 2018/19, with at least 1.6 million electronic messages exchanged on the platform each month.”¹⁵

The Republic of Singapore: “The Integrated Case Management System (the ICMS) was first launched in 2013. The ICMS is a multi-agency, paperless e-filing and e-workflow case management system for the administration of criminal cases. Used from the start of the prosecution process when charges are filed, to the end when a verdict is given and sentence is

¹⁴ *Id.* at 9-10.

¹⁵South Africa Yearbook 2018/19, *Justice and Correctional Services*, page 3, available at <https://www.gcis.gov.za/sites/default/files/docs/resourcecentre/yearbook/yb1919-15-Justice.pdf> (last visited 25 March 2020).

passed, the ICMS is used by the Courts, the Attorney-General's Chambers, law firms, the Police and law enforcement agencies, Prisons and accused persons.”¹⁶

Persons participating in court proceedings or their attorneys can access to the ICMS after registration. They can receive information about the process of their cases, persons participating in the proceedings can submit online applications or upload any document involved in their case materials.

Furthermore, since 2017 law firms can have their account in the ICMS, and the lawyers can enter the ICMS by the account of their law firms. Besides, guidelines for all stakeholders are available to download from the website. The website allows users to submit online applications, as well as apply to resolve a dispute without going to court, referring to mediation as an alternative dispute resolution (ADR) method. Besides, there is also a window called “Filling a claim against your neighbour” which provides answers to the following questions:

- “Who is my neighbour?
- What are some examples of interference by my neighbour?
- What kind of evidence can I bring before the Community Disputes Resolution Tribunal (CDRT)?
- What court orders can I apply? What court orders can the CDRT make?
- What will the CDRT consider in deciding whether to make a court order and what court order to make?
- What can I do if my neighbour refuses to comply with the court order?
- What can I do if I know my neighbour's address but do not know my neighbour's name?
- I am bankrupt. Am I able to bring a claim against my neighbour in the CDRT?”¹⁷

The website is clear enough for users who can get well-introduced information about the website from the downloaded guidelines.

The Republic of Rwanda: From 2015-2016, the Ministry of Justice of the Republic of Rwanda developed and implemented the Integrated Electronic Case Management System (the “IECMS”)

¹⁶ State Court Singapore, *Integrated Case Management System (ICMS)*, available at <https://www.statecourts.gov.sg/CriminalCase/Pages/The-ICMS-portal.aspx> (last visited 25 March 2020).

¹⁷ State Courts Singapore, *An Overview of the CDRT*, available at <https://www.statecourts.gov.sg/cws/CDRT/Pages/CDRT-Process.aspx> (last visited 25 March 2020).

which progressed the level of integration between law enforcement, the prosecutor's office, courts, and others.

“The IECMS serves as the single point of entry for all Justice Sector institutions involved in managing cases. The system records all judicial case information from the time a plaintiff files a civil case, or in criminal matters, from the time of arrest through sentence execution, efficiently sharing that information among all relevant sector institutions. The IECMS automates the existing workflow processes of the Justice Sector and provides each institution with a configured interface to perform their specific functions, restricting access based on user roles, permissions, and case status. The case workflow automates the processing of cases from one agency to the next, so that there is a seamless integration of activities and communication. The system automatically sends in-system email and SMS notifications to users, and users can create, assign, and track tasks. Information is captured and passed on digitally, and data exchange is no longer fragmented. A detailed audit trail provides a record of all edits and status updates. The system tracks individuals separate from cases, so that authorized users can access an individual's profile to see their relevant case histories. If the police create a case file on an individual, for example, they will instantly have access to the individual's full case history across all justice sector institutions. This includes comprehensive access to legally authorized police, court, and prison records.”¹⁸

Nowadays, the Integrated Electronic Case Management System has over 8,000 registered users and each day about 1,400 users. One of the features of the system is that the Integrated Electronic Case Management System collects information about person. The user, who has access to the system, can get detailed information about person, in particular, the biography of perpetrator, the cases, where the later has been participated or any other detail. For instance, the police station initiates a case against a person, the case or related information will be accessible for law enforcement, the prosecutor's office, courts, and corrections. Furthermore, the Integrated

¹⁸ Adam Curtis Watson, Regis Rukundakuvaga, Khachatur Matevosyan, *Integrated Justice: An Information Systems Approach to Justice Sector Case Management and Information Sharing*, pages 3-4, available at https://www.researchgate.net/publication/318285933_Integrated_Justice_An_Information_Systems_Approach_to_Justice_Sector_Case_Management_and_Information_Sharing (last visited 31 March 2020).

Electronic Case Management System is an excellent way to monitor feedback to compile accurate statistics to provide citizens.

“The effective implementation of an automated Case Management System has also been the source of international recognition of the Justice Sector, and was specifically cited by the World Bank as the primary factor causing Rwanda’s ranking in the Enforcing Contracts section of the Doing Business Report to raise 22 positions between 2016 and 2017.”¹⁹

The successes of the Integrated Electronic Case Management System of the Republic of Rwanda are the followings:

1. **Country Ownership-** producing and implementing the project through the government system,
2. **Sector Wide Approach and Interagency Cooperation-** introducing a highly sophisticated interagency information system through the combination of a highly centralized government and a predefined Sector Wide Approach,
3. **Proactive Business Process Reengineering-** describing the required technical solution and all business processes, expediting the work of the developers,
4. **Developing from the Beginning-** starting with the Rwanda National Police and ending with the Rwandan Correctional Services,
5. **Deploying from the End-** installing the E-justice system after demand,
6. **Focusing Forward-** initially focusing on the new cases only instead of going back.
7. **Training of Trainers-** training the users after and before introducing the system to ensure a continuous rotation of training activities.²⁰

The Italian Republic: “The Italian branch of the European Judicial Network (EJN) is based at the Italian Ministry of Justice, in the Office for International Relations and Judicial Cooperation in Civil Matters. There are five contact points, four at the Ministry of Justice and one at the Public Prosecutor’s office at the Court of Cassation (*Corte di Cassazione*). The coordinating contact point is a qualified judge. The contact points are in constant contact with other members of the Network, with whom they collaborate in processing requests for cooperation or in

¹⁹ *Id.* at 6.

²⁰ *Id.* at 6-7.

preparing practical information sheets to publish on the E-justice Portal. The other members of the Italian Network are:

- the Department of Juvenile and Community Justice (*Dipartimento per la giustizia minorile e di comunità*)
- the Directorate-General for Automated Information Systems (*Direzione generale per i sistemi informativi automatizzati*, contact point for the E-justice Portal)
- the central authority for the service of judicial documents
- the National Bar Council (*Consiglio Nazionale Forense*)
- the Italian Council of Notaries (*Consiglio Italiano del Notariato*).

The contact points for the EJNI also have links with

- the Judicial College (*Scuola Superiore della Magistratura*)
- the Italian branch of the European Consumer Centres Network (ECC Net)
- the Internal Market Information System structure in Italy
- Pietro Franzina, professor of a private international law professor at the University of Ferrara, expert advising the contact points.”²¹

Based on the information available, the Italian Republic is one of the few European countries in which e-filing is the sole way to exchange documents between the courts and the external users in all civil proceedings. Online civil trial is an e-filing platform used on mandatory bases for all civil proceedings in the first instance and the appeal court, working synchronously with a robust Case Management System, a Public access platform, an e-Payment engine, and a centralized data warehouse. Judges, clerks, and lawyers work with dedicated interfaces. The Italian Ministry of Justice has designed trial online to handle all civil judicial procedures in paperless format and to provide a high level of security, privacy and confidentiality. It supplies online services to a massive number of external users: 200.000 lawyers, 3.000 judges, and 15.000 clerks. The data collected through the system are made available to a data warehouse providing standard reporting and ad hoc queries. The data warehouse made available to the

²¹ European Judicial Network, *e-Justice Italy*, available at https://E-justice.europa.eu/content_about_the_network-431-it-en.do?member=1 (last visited 15 March 2020).

Italian Ministry of Justice, the Italian Courts, and researchers the possibility to have precise views of the functioning of the system and design policies based on sound empirical evidence.²²

“The “processo civile telematico” (which in English can be translated into “Online Civil Trial”), developed by the Italian Ministry of Justice, is one of the most important e-Government plans in Italy. It aims to increase the availability of online services building a two-way data and document interchange and application interoperability between an enormous number of external users (lawyers, expert witnesses,...), Courts’ internal users (clerks, judges,...) and all the public administrations and private parties involved in civil cases, implementing a high-security PKI (Public Key Infrastructure) architecture and adopting state-of-the-art technical standards, according to the Italian technical regulations.”²³

As for electronic communications and notifications provided in the Italian Republic the “PCT Infrastructure” provides two kinds of services:

“**Asynchronous communications:** transmission of electronic legal acts and official communications and notifications. For this kind of services, “certified mail” (called PEC, acronym for “Posta Elettronica Certificata”) and digital signature are adopted, according to national legislation and technical rules.

Synchronous services: such as online access to information and electronic acts and documents stored in the File System. For these kinds of services, strong authentication is required in order to ensure certain e-identification of the user. The authentication is performed by specific external Access Points (authorized by the Ministry of Justice) or by the Italian E-justice Portal provided by the Ministry of Justice. Besides, anonymous information on the status of the proceedings can be gained without any authentication through the Portal or via mobile apps (for iOS or Android devices) provided by the Ministry of Justice.”²⁴

²² Report on the outcome of the visit. Francesco Contini, Theme II “Ensuring Justice” – Action 5: Regional dimension for 6 EaP, Project for Regional Dialogue on Judicial Reform in the EaP Countries, 28 February 2017, (unpublished).

²³ The Italian Ministry of Justice, IP Department, *E-Justice in Italy: The “Online Civil Trial” page 1*, available at https://pst.giustizia.it/PST/resources/cms/documents/eJustice_in_Italy_rev_May_2016.pdf (last visited 27 March 2020).

²⁴*Id.* at 2-3.

In the Italian Republic, lawyers and assessors (the executive body in all levels of local government) are qualified as external users that can receive electronic communications and notifications from courts. The service not only saves time and human resources but allows them to get reliable information directly from the recipient and save money for getting hard copies of the documents as well. After having the regulation of electronic communications and notifications for lawyers and assessors in place, the country started to provide access to legal acts and documents stored in the File System, then to receive electronic communications and notifications from courts for citizens and private companies. In 2016, the law defined an obligation for Italian all 165 First Instance courts, 26 courts of Appeal, and the Supreme court to send communications and notifications only via electronic means. As a result, during a year, approximately 17 million messages have been addressed, and the annual savings of costs for notification is estimated at 55 million euro.²⁵

²⁵*Id.* at 3-6.

CHAPTER 2

The current situation in the Republic of Armenia and one of the primary purposes of introducing the E-justice system to facilitate the exercise of the rights and obligations of all its stakeholders

There are many electronic systems of justice in the world, which make new goals and give new opportunities to achieve. Nowadays, in the Republic of Armenia, some electronic systems have already been launched. Still, these systems are not interoperable with the electronic systems of other bodies in the field of justice. In particular, the following systems exist in the justice sector:

- Mulberry system and www.police.am for Police of the Republic of Armenia,
- Mulberry system and Internal electronic management system for Investigative Committee of the Republic of Armenia,
- Mulberry system for Special Investigation Service of the Republic of Armenia,
- Mulberry system for the Prosecutor General's Office of the Republic of Armenia,
- www.datalex.am and CAST (Case automation skill transfer) system for courts, but there is no a unified electronic judiciary platform for courts,
- Mulberry system and www.harkadir.am for Compulsory Enforcement Service of the Republic of Armenia,
- Mulberry system and www.probation.am for Probation Service of the Republic of Armenia,
- Mulberry system for Penitentiary Service of the Republic of Armenia. E-penitentiary.am website is planned to introduce.

The systems mentioned above are considered databases, as well as internal document circulation management systems.

Since 2019, new actions have begun to introduce and implement the E-justice system. Currently, the following works are being or have been done.

1. The European Union funds the project to draft terms of reference for technical assistance to support the development of the E-justice system. The purpose of project is to unite and

establish common standards for the E-justice system and constituent subsystems, to define the technical requirements for each subsystem and to summarize the works thereof.

2. Within the framework of the project “Support to Improvement of the Bankruptcy System in Armenia” technical description of the electronic platform of administrating bankruptcy cases has been developed. In particular, the Electronic Bankruptcy System will provide digitalization of all processes related to bankruptcy proceedings, from the initiation of bankruptcy proceedings to the end of the cases, including the process of selecting and appointing a bankruptcy administrator.

3. In the scope of “Digitization of Judicial Documents and Implementation of Electronic Court System in the Republic of Armenia” project the US Agency for International Development (USAID) is planning to introduce an electronic system for civil cases. “Payment order” module of the system has been introduced. In the real regime, applications for the payment orders were submitted, which were signed to the judges presented by the Supreme Judicial Council of the Republic of Armenia and received corresponding process.²⁶

4. On August 19, 2019, the Prime Minister of the Republic of Armenia passed the resolution N 1149 – A “On Creating an Interdepartmental Commission on the Development and Investment of a Unified System of Electronic Justice, Adopting Its Individual Staff and Procedures”.²⁷

5. By the fund of the European Union, the Ministry of Justice of the Republic of Armenia has launched an advertising campaign of e-request.am single platform for electronic inquiries which includes public discussions, social media posters, and videos broadcasting on television. In particular, advertising posters have been installed in Yerevan (35 billboards, 20 scrolls, 15 branded stops, 4 LED screens on Sayat-Nova Street and North Avenue, and 6 posters in the Yerevan subway).

6. By the resolution of the Government of the Republic of Armenia N 400-N, dated 11 April 2019 “On making amendments and additions to the resolution of the Government of the

²⁶ “Payment order” module, available at <https://cabinet.armlex.am/> (last visited 11 May 2020).

²⁷ Republic of Armenia Prime Minister Resolution N 1149 – A, dated 19 August 2019 “On Creating an Interdepartmental Committee on the Development and Investment of a Unified System of Electronic Justice, Adopting Its Individual Staff and Procedures.

Republic of Armenia N 1109-N, dated 27 October 2016” the list of state-owned service providers has been increased by 40 communities.²⁸

7. Ongoing maintenance of www.arlis.am (Armenian Legal Information System), www.e-draft.am, and www.e-request.am electronic platforms has been provided.

In addition to all the implemented works, other projects are also being planned which will lead to the completion of introduction of the E-justice system. In particular, by the 2019-2023 Strategy for Judicial and Legal Reforms of the Republic of Armenia Action Plan on Setting up a Unified E-justice System and Ensuring Accessibility of Electronic Databases and Updating Thereof (“Action plan”) some E-justice subsystems should be created and implemented. As the Action plan includes many actions to be operated, some of them will be found out and represented.²⁹

1. According to the action 3 of Objective 1 of Action plan a toolkit necessary for making electronic notifications should be introduced. On the one hand, the current Civil Procedure Code of the Republic of Armenia (the “Civil Procedure Code”) provides for the state, local self-government bodies, advocates, legal entities, individual entrepreneurs, and persons, participating in the proceedings, to receive judicial notifications electronically.³⁰ However, no such procedure is prescribed in the Administrative Procedure Code of the Republic of Armenia (the “Administrative Procedure Code”), and judicial notifications are still being sent by post.³¹ By the Action plan, the destination of action 3 is to regulate the mechanisms for sending any act approved with an electronic signature by the court to the local self-government bodies, legal entities, individual entrepreneurs, advocates, and a person participating in the case, to the electronic mail address provided to the court by the participant of the proceedings, based on the solutions of the unified system of notifications.

²⁸ Republic of Armenia Government Resolution N 400- N, dated 11 April 2019 “On Making Amendments and Additions to the Decision of the Government of the Republic of Armenia N 1109-N, dated 27 October 2016.”

²⁹ Republic of Armenia Government Resolution N 1441-L, dated 10 October 2019 “On approving the 2019-2023 Strategy for Judicial and Legal Reforms of the Republic of Armenia and the Action Plans Deriving therefrom” Annex 4.

³⁰ Republic of Armenia Code of Civil Procedure No. HO-110-N, adopted on 9 February 2018, as amended through 12 December 2019.

³¹ Republic of Armenia Code of Administrative Procedure No. HO-139-N, adopted on 5 December 2013.

2. As action 8 of Objective 1 of Action plan stipulates, a system for providing and receiving information from agencies related to the judiciary should be developed and implemented in 2023. Nowadays, there are many problems for courts and the bodies acting in the judicial sector to provide or receive documents because of the circulation of large volumes of the paper-based materials, potential data loss, complicated administration, inefficient use of human and financial resources, etc. The described system will enable to provide information about the case proceedings automatically to corresponding bodies (Compulsory Enforcement Service, notaries, financial organization, banks, and other agencies).

3. By action 10 of Objective 1 of the Action plan, the electronic subsystem for civil and administrative cases within the unified E-justice system should be introduced and put into operation in 2022. Persons, participating in civil or administrative litigation can enjoy their rights to electronically submit a statement of claim, appeal, application, and response to claim, motion or other documents prescribed by law. Still, they do not have the opportunity to submit the mentioned documents through the electronic system. To conclude, the aims of this point are the introduction of the electronic module for civil and administrative cases within the unified E-justice system, and digitization of civil and administrative proceedings.

4. According to action 11 of Objective 1 of the Action plan, the electronic subsystems for criminal cases within the unified E-justice system should be introduced and put into operation in 2023. Introduction of the electronic subsystems for criminal cases, consolidation of the document circulation, and interoperability between law enforcement, judicial, and enforcement bodies are the requirements of action. On the one hand, the criminal proceedings are accomplished in the form of documentation and there is no electronic system to provide the documents circulation within the bodies of the judicial field. Hence, this subsystem will consist of the electronic systems and databases of the law enforcement (Investigation and Preliminary Investigation Bodies, Prosecutor's Office), judicial and enforcement (Compulsory Enforcement Service, Penitentiary Service, Probation Service) bodies.

5. The action 3 of Objective 2 of Action plan highlights the point to update the official website for public notifications and the system of individual notification of the Republic of Armenia and to establish a unified system for individual and public notifications. Some problems

arise at the stages of entering and maintaining the website because of increasing announcements. Furthermore, there is no system to notify users about announcements. Hence, the unified system for individual and public notifications should be created, tested, and simplified.

To sum up, by the highlighted actions, the Government of the Republic of Armenian plans to illustrate and to implement the E-justice system based on the international experience of developed countries, and to provide input focused on some of the following common challenges to be addressed by the E-justice system.

1) The first challenge is **to keep the current technological infrastructure well running and updated**. This is an issue which will discuss the challenges faced to maintain and further develop the technology infrastructure. This is an open challenge in any justice system. The technology infrastructure is in constant evolution due to hardware updates, software patches, and legal changes. To keep up and running, such a system requires a well-organized maintenance and evolution system, regular budget for hardware and software updates, and coordination between lawmakers.

2) The second challenge is **to remove paper-based cases and eliminate physical damage or loss of case files**. The issue is about the full replacement of paper-based case records and workflows by their computerized counterparts to enable full reproduction of cases along with case proceedings information in the event of loss or physical damage of case files.

3) The third challenge is **to build the E-justice system starting from the installed base**. This is particularly the case for all the infrastructural components: the components that have to be shared between the justice system and the external parties to exchange procedural documents and data such as e-identification platforms.

4) The fourth challenge is **to start with high and straightforward volume procedure**. The E-justice system is a highly sophisticated platform from legal, technological, and organizational perspectives. Hence, a complexity reduction strategy should be outlined. In this effort, high volume procedure is a must since it allows to keep procedural and documental complexity at a low level. Furthermore, starting with high volume procedures will support the further development of the platform.

5) The fifth challenge is **to make the system accessible with the means of communication available to users (SMS, smartphone, and other communications)**. Even if the full functionalities of the platform, and particularly the official exchange of procedural documents may be accessible to a relatively small users' group (typically lawyers), other features can be made available to non-professional users. Access to case-related information, case update via e-mail, SMS or other apps, are some of the functionalities to inform non-professional users about case development.

6) The sixth challenge is about **law, technology and organization**. The various issues discussed so far highlight a persistent dynamic between law, technology and organization. The dynamic takes the form of legal changes, technological implementation, and organizational adoption. In fact, large-scale E-justice platforms are not a single instalment process, but cycles of adaptation between law, technology and organization. Hence, they require the involvement of policy makers, court leaders, and technology developers.

The list is not limited as there are and can be more challenges that should be taken into account.

As those actions and goals show, one of the primary purposes of introducing the E-justice system is to facilitate the work, the fulfillment of rights and obligations of the public entities, individuals, legal persons, attorneys, and each person involved in court proceedings. It is a fact that the process can be difficult at first, because not only the law enforcement, judicial, enforcement bodies, and attorneys are involved, but individuals as well. Well-structured and organized steps will lead to the situation which needs to be achieved. Chapter 3 represents the problem that the introduction of the E-justice system in the Republic of Armenia can have. The issue concerns the electronic communications and notifications. In particular, it is a fact that a big part of them can use the electronic system such as persons working in public sectors or private organizations because they are more familiar with the platform, and they are more armed technically. Meanwhile, it cannot be equally accessible to the small group of persons who never get in contact on electronic platforms and cannot execute their rights.

CHAPTER 3

The problem of the E-justice system in the Republic of Armenia and possible solutions for the raised issue.

The issue that can arise is whether the E-justice system facilitates the exercise of the rights and obligations of and is equally accessible for all its stakeholders. To answer the question, some points should be studied.

As it has been already mentioned in Chapter 1, by Annex No 4 to the resolution of the Government of the Republic of Armenia N 1441-L, dated 10 October 2019 “On approving the 2019-2023 Strategy for Judicial and Legal Reforms of the Republic of Armenia and the Action Plans Deriving therefrom” the listed actions are planned to introduce are:

1. a toolkit necessary for making notifications electronically,
2. the official website for public notifications and the system of individual notification of the Republic of Armenia and a unified system for individual and public notifications,
3. the electronic sub-system for civil and administrative cases within the unified E-justice system,
4. the electronic sub-systems for criminal cases within the unified E-justice system, etc.

This paper briefly highlights these actions only because the problem is mainly about them.

The E-justice system is meant to make an opportunity to submit a statement of claim, appeal, application, and response to claim, motion or other documents through electronic system and to receive a notification via multiple channels such as e-mail, internal system messages or by SMS for legal entities, individual entrepreneurs and persons participating in the case.

The Civil Procedure Code provides settings to send judicial notice electronically. According to Article 97 a judicial notice addressed to the local self-government bodies, legal persons, individual entrepreneurs, advocates, and a person participating in the case, shall be sent to the official e-mail address, unless such notification is impossible. It is essential to mention that the electronic notification has been added to the Civil Procedure Code as an option. In general, this new option does not work yet, because the law prescribed the way to send the notifications by post also. Meanwhile, the Administrative Procedure Code does not provide the procedure of electronic notification, and still, subpoenas are being sent by post.

The policy of the Government of the Republic of Armenia is to make electronic communications and notifications easily accessible to the state, to avoid time consuming postages the post way. Some amendments to the Civil Procedure Code and the Administrative Procedure Code will be made to revise the articles, which provide the system of electronic notifications. In the future, the Government of the Republic of Armenia plans to make notifications via an e-mail address, internal system or SMS. Besides, other platforms are being planned to put in action electronic communications between parties of the case or other participants.

In the initial stage of the introduction of the unified electronic court system, the “payment orders” module was tested. Two judges nominated by the Supreme Judicial Council of the Republic of Armenia have been involved in the module testing. Particularly, once the applications have been filed, the unified electronic court system automatically inscribes those to the appropriate judges represented by the Supreme Judicial Council of the Republic of Armenia, who may issue a payment order and completely or partially reject the application of payment order through the mentioned system. Furthermore, from 12 March 2020, "Ucom" CJSC has submitted applications from payment orders through the test system.

The intended purpose is to send notifications to the determined parties for any change in the status of an application. The unified system will also send notifications based on different schedules. Particularly, it will remind to the designated parties about the data or the modification of the data in the case. Once e-mail, profile or numbers of the phone are confirmed the system will send automatic notifications to users about the events that occurred in the system.

The system will give the opportunity for easy access to available cases via portfolio. This functionality will provide the users of the justice sector institutions and individual entrepreneurs, legal entities, attorneys, persons participating in the case, to have electronic access to the case related to them within the scope of the permission they have.

The related cases to the prescribed users will be stored in the portfolio module, which will enable receiving and managing information: mainly, the list of all cases, to-do lists, tasks, case events, appointments, etc. To sum up, the users entering by their portfolio will be able to file new

case, view or add available cases, view the schedule of hearings of the cases relevant to the user, manage the documents, case events, case notes, case tasks, view online case calendar, etc.

Besides, one of the cornerstone components of the unified system is the introduction of data visualization, monitoring, analysis and reporting tools for visualizing and interpreting case data for any level of the judicial system. Via the functionality mentioned above, the user can get information by charts, lists, maps, reports, etc. based on the data visualization and analytics.

Hence, the introduction and implementation of the E- justice system facilitates the exercise of the rights and obligations of its stakeholders due to its advantages. The introduction of the E-justice system will lead to

- ❖ the elimination of errors (a single system will manage the entire case lifecycle effectively moving data from one justice sector to another improving communications and decreasing the likelihood of processing errors),
- ❖ the elimination of physical damage or loss of the case (replacement of the paper-based materials of the case to the electronic file to exclude the event of loss or physical damage of the case file),
- ❖ the improvement of the internal process (minimize human intervention and reduce the delays of cases by automating and standardizing procedures),
- ❖ the improvement of management of customer relationship (provide accessibility and integrity to the judicial system for citizens),
- ❖ the performance of monitoring (collect consolidated information on the case data, improve the transparency and accountability of the judicial sector),
- ❖ cost-saving (activities via an automated process and notify users of pending actions decreasing time and efforts).

The E-justice system is a good solution for many cases. Mainly, the notice of the Government of the Republic of Singapore, as provide below, shows the importance of the E-justice system in the country.

“As a precautionary measure, all visitors to the State Courts will be required to register and undergo temperature scanning at the entrance of the building.

If you are feeling unwell with fever and/or flu like symptoms, or serving a Home Quarantine Order or Stay-Home Notice, please refrain from visiting the State Courts.

Instead, you should seek an adjournment for your court hearing or appointment via our case systems online or by contacting us. You will be required to provide the relevant documents such as the Home Quarantine Order, Stay-Home Notice or medical certificate, to support your request for the adjournment. To minimise the time spent in crowded public spaces, we also encourage you to use our website, e-services, call or write to us instead of visiting us, where possible. Here are the links to our key e-services and contact details.”³²

The same situation is in the Italian Republic, the Republic of Armenia and other countries too. Furthermore, because Coronavirus disease (COVID-19) is spreading every day, the Government of the Republic of Armenia declared State of Emergency from 16 March to 14 April 2020 and made some restrictions.³³

There is a direct connection between the mentioned disease and the E-justice system. Many public and private institutions are prohibited from working from their offices, free movement of persons is restricted because the spread of Coronavirus disease qualifies for a force majeure situation. So, launching the E-justice system many problems raised because of the force majeure situation will be solved. For example, the notifications will be sent via e-mail, internal system messages or by SMS, the person will follow the process of the case related to him/her by personal account, will get acquainted with the documents of the case electronically, etc.

According to Article 28 of the Constitution of the Republic of Armenia, “Everyone shall be equal before the law”.³⁴ So, the E-justice system should be equally accessible for its stakeholders. The implementation of the E-justice system will be considered fulfilled, when each component is put in the action for all its beneficiaries. Meanwhile, it is important to take into account the abilities and opportunities of all the mentioned stakeholders. When the E-justice system is implemented in the Republic of Armenia, it will make so difficult to provide equal

³² State Courts Singapore, Notice: COVID-19 Advisory for Visitors to the State Courts, available at <https://www.statecourts.gov.sg/cws/NewsAndEvents/Pages/Notice-COVID-19-Advisory-for-visitors-to-the-State-Courts.aspx> (last visited 30 March 2020).

³³ Republic of Armenia Government Resolution N 298 – N, dated 16 March 2020 “On declaring the State of Emergency in the Republic of Armenia.”

³⁴ Republic of Armenia Constitution as amended through 6 December 2015, Art. 28.

accessibility for all designated parties. Notably, there will not be any problem with legal entities, individual entrepreneurs, because they can use the opportunities that the E-justice system gives. However, the same cannot be said about persons who live in the countryside and who have social and financial problems to use computers or other electronic equipment. Therefore, the E-justice system will not be equally accessible for individual entrepreneurs and citizens, legal entities and other persons participating in the case.

Initially, the introduction of the E-justice system and the maintenance of the existing system can be one of the solutions to implementing the E-justice system gradually. For instance, the documents of the case should be kept both electronic and paper-based, or the notifications should be sent both via e-mail, internal system messages or by SMS and by post, as applicable. The purpose of putting in action these two systems simultaneously is to provide the fulfillment of rights and obligations for all prescribed parties.

For instance, in the civil case the respondent is an old man from the village of a region in the Republic of Armenia, who does not have any electronic equipment or cannot use it. Whereas, the plaintiff is a legal entity. The plaintiff has a personal account through which the latter will file the claim against the older man, will follow the case, will submit the documents, will get notifications electronically, etc. The respondent will continue to get information from his attorney or the court, by post notifications and by/from each non-electronic way.

Unfortunately, in that case the suggested solution cannot solve the problem for two reasons. First, the old man participating in the case will not have the opportunity to get any information related to the case in case of force majeure: mainly, in case if the right of free movement is restricted and he cannot use advantages of the E-justice system (cannot use electronic communication or receive notifications by post, etc.). Second, the plaintiff and the respondent will not have the same possibility to enjoy the facilitation of the exercise of their rights and obligations.

To sum up, the E-justice system is not accessible for some group of persons by not providing equal opportunity for all its stakeholders, which can lead to a decrease in the efficiency of the whole system.

To exclude the problems, the Government of the Republic of Armenia should undertake some measures. First of all, the monitoring should behold to ascertain the villages or the regions which have the most significant amount of persons who do not have equal access to the E-justice system. Then, the E-justice system, its cornerstones, and components should be introduced and made clear to the society.

Overall, almost everyone has mobile phone and the group of persons having no mobile phone is too small. Therefore, it will not be a problem to send notifications to the person participating in the case by SMS and by post simultaneously, if the latter is not able to create a personal account on the E-justice system. The notifications will be sent to the persons having no mobile phone only by post. Besides, the legislator should define rules to ensure the fundamental principles of equality of everyone before the law, equality of arms in the litigation in case of implementation of the E-justice system. Hence, according to the amendment of legislation, the parties of the case (plaintiff, respondent, etc.) should have the same opportunities and parallel arms in the litigation. Initially, providing the current regulations and the regulations introduced by the E-justice system simultaneously concerning the communication and notifications will be considered temporary solution for this situation. After some time, the E-justice system will equally accessible for its stakeholders and they will be able to exercise their rights and obligations through the E-justice system. Afterwards, the implementation of the E-justice system will be completed and the current regulations will be excluded by the legislation of the Republic of Armenia.

CONCLUSION

This paper is addressed to study and to ascertain the question of whether the E-justice system facilitates the exercise of the rights and obligations of and is equally accessible for all its stakeholders.

By illustrating the international experience of the E-justice system in developed countries, this paper highlights the advantages and the success of the E-justice system. The studied experience shows that the E-justice system provides 24 hours/ 7 days access to the E-justice system, exclusion of loss or physical damage of materials, reduction of the length of the proceedings, etc. The successful international experience approves that the E-justice system makes the execution of the rights and obligations easier.

Nowadays, the Government of the Republic of Armenia intends to introduce and to implement the unified E-justice system. No matter that some actions have already been done directed to the introduction of the E-justice system, the big part of the implementation is planned to be fulfilled by 2023. The updated tools ascertain the features of the E-justice system but those tools are not enough to express all the opportunities that the E-justice system can give. “The 2019-2023 Strategy for Judicial and Legal Reforms of the Republic of Armenia Action Plan on Setting up a Unified E-justice System and Ensuring Accessibility of Electronic Databases and Updating Thereof” clearly specifies the actions, the baseline situations, the targets as per stages, the verification measures and expected outcome of the actions that need to introduce. Hence, the strategic directions and the actions mentioned above show that the introduction of the unified E-justice system will facilitate of the fulfillment of the rights and obligations of the state, local self-government bodies, advocates, legal entities, individual entrepreneurs, and persons, participating in the proceedings.

However, there is no evidence that the E-justice system is or will be equally accessible for all its beneficiaries. The E-justice system makes an opportunity to submit a statement of claim, appeal, application, and response to claim, motion or other documents through an electronic system and to receive a notification via multiple channels such as e-mail, internal system messages or by SMS for legal entities, individual entrepreneurs and persons participating in the case. However, not all stakeholders of the E-justice system have opportunities or abilities to

exercise their rights and obligations electronically. Legal entities, individual entrepreneurs will not have any problem with using the E-justice system. Meanwhile, the person who lives in the countryside and who has social and financial issues to use computers or other electronic equipment will have some difficulties. To sum up, the E-justice system will not be accessible for some group of persons by not providing equal opportunity for all its stakeholders, which can lead to a decrease in the efficiency of the whole system. To solve this problem, some solutions are suggested. To exclude the problems, the Government of the Republic of Armenia should monitor and ascertain the villages or the regions where the most significant amount of persons are who do not have the possibility to equal access to the E-justice system and to introduce and make clear the E-justice system to the society. Besides, the legislator should define the rules to ensure the fundamental principles of equality for everyone before the law and equality of arms in the litigation in case of implementation of the E-justice system. Hence, according to the amendment of legislation, the parties of the case should have the same opportunities and parallel arms in the litigation. Initially, the E-justice system should be introduced gradually within the maintenance of the current regulations provided by the legislation of the Republic of Armenia. After some time, the E-justice system will equally accessible for its stakeholders and they will be able to exercise their rights and obligations through the E-justice system. Afterwards, the implementation of the E-justice system will be completed and the current regulations will be excluded by the legislation of the Republic of Armenia.

To conclude, nowadays, the E-justice system facilitates the execution of the rights and obligations of all its beneficiaries but it is not equally accessible for all designated parties. Nevertheless, the introduction of the unified E-justice system will promote the development of judicial sector and will be attainable for all of its stakeholders.

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