SCENARIO ANALYSIS OF LEVEL IMPROVEMENT DYNAMICS JUDICIAL PROTECTION IN THE DIGITAL ECONOMY

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ABSTRACT
The introduction of digital technologies is transforming many areas of public relations. The process of administering justice in this sense also cannot be an exception and, taking into account the requirements of modern realities, is actively introducing information and telecommunication technologies into its activities. The introduction of external technical tools into relations, in which the court is a mandatory participant, requires a thorough study of scenarios for the development of procedural relations from the point of view of the implementation of the constitutional right to judicial protection and access to justice in the new digital realities.

Keywords: Digital economy, E-justice, Scenario analysis. Digital technologies, European charter of ethics on the use of artificial intelligence in judicial systems and the realities around them.

ANÁLISE DE CENÁRIO DE MELHORIA DE NÍVEL DINÂMICA DE PROTEÇÃO JUDICIAL NA ECONOMIA DIGITAL

ANÁLISIS ESCENARIO DE LA DÍNAMICA DE MEJORA DE NIVEL PROTECCIÓN JUDICIAL EN LA ECONOMÍA DIGITAL

RESUMO
A introdução de tecnologias digitais está transformando muitas áreas das relações públicas. O processo de administrar a justiça neste sentido também não pode ser uma exceção e, atendendo às exigências da realidade moderna, está introduzindo ativamente as tecnologias da informação e das telecomunicações em suas atividades. A introdução de ferramentas técnicas externas nas relações, de que o tribunal é participante obrigatório, exige um estudo aprofundado de cenários para o desenvolvimento das relações processuais do ponto de vista da concretização do direito constitucional à proteção judicial e ao acesso à justiça em as novas realidades digitais.

Palavras-chave: Economia digital, Justiça eletrônica. Análise de cenário, Tecnologias digitais. Carta europeia de ética sobre a utilização da inteligência artificial nos sistemas judiciais e nas realidades que os rodeiam.

RESUMEN
La introducción de tecnología digital está transformando muchas áreas de las relaciones públicas. El proceso de administración de justicia en este sentido tampoco puede ser una excepción y, teniendo en cuenta las exigencias de las realidades modernas, está introduciendo activamente las tecnologías de la información y las telecomunicaciones en sus actividades. La introducción de herramientas técnicas externas en las relaciones, en las que el tribunal es interviniente obligatorio, requiere un estudio profundo de escenarios para el desarrollo de las relaciones procesales desde el punto de vista de la implementación del derecho constitucional a la tutela judicial y el acceso a la justicia en las nuevas realidades digitales.

Palabras-clave: Economía digital, E-justicia. Análisis de escenario, Tecnologías digitales. Carta ética europea sobre el uso de la inteligencia artificial en los sistemas judiciales y la realidad que los rodea.
INTRODUCTION
Scenario analysis of the implementation of the constitutional right to judicial protection and access to justice presupposes the construction of alternative forecasts that could, with a certain degree of probability, outline the prospects for the development of procedural relations associated with the need to use digital tools. Accordingly, it is necessary to determine the “points of growth” that would signal the changes that have occurred in the structure of procedural relations, due to the influence of the elements of “electronic justice” in the digital economy.

The definition of “growth points” can pursue several goals, if we build a scenario analysis in order to determine risk factors, this is one coordinate system that will allow us to assess the degree of influence of these data on the transformation of procedural relations and develop procedural risk management tools that can neutralize their consequences in the process implementation of “electronic justice”, which, due to the presence of a technical component, will always be probabilistic (VALEEV, NURIEV, 2019).

If we are building a scenario analysis of improving the level of judicial protection in the context of digital transformation, taking into account the experience of advanced countries (VALEEV, NURIEV, 2020), in our opinion, we should rely on the principles enshrined in the European Ethical Charter on the use of artificial intelligence in judicial systems and the realities surrounding them (https://rm.coe.int/ru-ethical-charter-enversion-17-12-2018-mdi-06092019-2-7680986014 Access: 14 apr 2020) in order to develop growth points that signal an improvement in the level of judicial protection in the context of digital transformation.

METHODS
The methodological basis of the study was formed by the general provisions of the procedural sciences: constitutional law, civil procedural law, administrative procedural law, criminal procedural law. The research used the following methods of scientific knowledge: intersectoral, dialectical, sociological method.

RESULTS AND DISCUSSION
The European Charter of Ethics on the Use of Artificial Intelligence in the Judiciary and its Surrounding Realities identifies five principles for the use of artificial intelligence in the judiciary and its surrounding realities:

1. Respect for fundamental rights:
   Ensure the development and implementation of artificial intelligence tools and services that are consistent with fundamental rights and do not restrict access to justice and the right to a fair trial.

2. Principle of non-discrimination:
   any classification used in automated systems must not generate or aggravate discrimination.

3. Principle of quality and safety:
   with regard to the processing of judgments and data, it is necessary to use certified sources and intangible data using models developed in an interdisciplinary manner in a secure technological environment. Machine learning should be based solely on expert opinion and rely on law enforcement materials from certified sources, which should not be changed until the moment they are actually used by the learning mechanism.

4. The principle of transparency, impartiality and reliability:
   make data processing methods accessible and understandable, allow an external audit. The system should be explained in simple and understandable language to describe the way to achieve results.

5. Principle of user control:
   move away from the prescriptive approach and allow the user to act as an informed person responsible for their choices. Specialists of the justice system should at any time have the opportunity to review court decisions and data used to obtain a result, while not necessarily remaining bound by them in the light of certain characteristics of this particular case. Any
information system based on artificial intelligence should include computer literacy programs and public discussions with justice professionals.

These principles, aimed at achieving a positive and favorable result for the participants in a disputed legal relationship as a result of using digital tools, can also be used to construct a scenario analysis for improving judicial protection in the context of digital transformation.

The principle of observance of fundamental rights when using digital tools in procedural relations opens up new opportunities in the implementation of the constitutional right to judicial protection due to its transparency and accessibility. This tool includes the service of submitting procedural documents in electronic form through the information and telecommunications network “Internet”.

As the experience of implementing this tool shows, in the future it is only planned to increase the number of electronic application to the court. “The number of electronic documents submitted to courts is growing by 30-40 percent on a quarterly basis. So, in 2017, federal courts of general jurisdiction in electronic form received about 280 thousand statements of claim and other procedural documents, in 2018, almost 700 thousand, in 2019, already over a million” (https://rg.ru/2020/04/14/uchastniki-processov-mogut-sozdavatlichnye-kabinety-na-sajtah-sudov.html Access: 14 apr.2020).

Scenario analysis shows a decrease in grounds for infringement of the procedural rights of participants in disputable legal relations due to the implementation of the principle of “non-discrimination” as an indicator of the dynamics of improving the level of judicial protection. Currently, there is a digital service “Case distribution module”, which, regardless of the judicial discretion, determines a random sample in the distribution of cases coming to court. In this case, the automated distribution of cases between judges is decided on the basis of predetermined data:

- legal specialization of judges;
- periods of absence of judges;
- the number of cases pending before each judge; the number of cases considered by the judge since the beginning of the year;
- average workload of judges, current workload of judges; absence of a judge (vacation, illness, study, participation in other events that exclude the possibility of accepting proceedings on the case);

The principle of transparency, impartiality and reliability is realized thanks to digital tools, which also make it possible to predict the further automation of the processes of familiarization with the results of court proceedings and the direct implementation of the principle of “digital immediacy”. Previously, the participants in the case could familiarize themselves with information about the state of the case only on the basis of written sources set out on paper, which limited the speed of transmission of information and its openness both for the participants in the process and for society as a whole, which should also have the possibility of external audit of the dispatch system justice.

At present, any user, thanks to the resource “litigation” on the page of the court of interest to him, can get acquainted with information about the progress of the case, about the adoption of procedural decisions by the judge. This leads to the possibility of an instant response to the actions of the judge and, as a consequence, to procedural economy. An important resource that opens access to judicial practice is the “Bank of Judicial Decisions” on the SAS portal “Justice”, which contains 140,570,051 cases and judicial acts.
SUMMARY
Scenario analysis of improving the level of judicial protection in the digital economy allows us to conclude that improvements in the implementation of the constitutional right to judicial protection and access to justice digital tools are associated with the simplification of issues arising from the field of judicial proceedings, which also affect the development of procedural relations.

So, for example, all statements of claim received by the court, administrative statements of claim, statements in special proceedings, complaints, representations, protests, criminal, civil and administrative cases, cases of administrative offenses after registration in the PS GAS “Justice” and formation in the register (journal) of incoming correspondence are distributed in an automated mode by means of the PS GAS “Justice” “Module for the distribution of cases” [https://www.vsrfru/about/info/systems/judicial_documents_and_paperwork Access: 14 apr.2020].

CONCLUSIONS
Scenario analysis of improving the level of judicial protection in the digital economy showed the development of the domestic model of using digital tools in the procedural sphere, by analogy with world experience. The principles enshrined in the European Charter of Ethics on the use of artificial intelligence in judicial systems and the realities surrounding them are widely applied in Russian procedural legislation so that the use of digital tools (at this stage, primarily in the field of judicial proceedings) facilitates access to justice.

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