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FOREIGN EXPERIENCE IN THE USE OF MODERN INFORMATION AND COMMUNICATION TECHNOLOGIES IN THE INVESTIGATION PROCESS OF THE CRIMINAL PROCEEDINGS

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ABSTRACT

The article reveals the best foreign experience in the implementation of pre-trial investigation in an electronic format. The purpose of studying this experience is to resolve the issue of the possibility of introducing positive results of foreign countries into the legislation of the Republic of Uzbekistan. The analysis of the law enforcement practice of foreign countries allows us to make a well-founded conclusion that the process of transition of the pre-trial investigation stage from paper to electronic format takes quite a long time and is accompanied by various kinds of difficulties.

KEYWORDS: Pre-Trial Investigation, Investigation of Criminal Cases in Electronic Format, Electronic Criminal Case, Foreign Experience, Law Enforcement Practice.

INTRODUCTION

The criminal procedural legislation of the Republic of Uzbekistan in recent years has undergone serious reform, one of the areas of which has become the possibility of carrying out pre-trial investigation in electronic format.

In accordance with the Concept of improving the criminal and criminal procedural legislation of the Republic of Uzbekistan, approved by the Decree of the President of the Republic of Uzbekistan dated May 14, 2018 no. PP-3723, as one of the tasks of introducing new forms and procedures of the criminal process, the task is to ensure the effective use of information and communication technologies in forensic activities, including the introduction of the "Electronic

Criminal Case" system and "remote interrogation" [1]. In this regard, the Law of the Republic of Uzbekistan dated May 23, 2019 no. ZRU-542 to the Criminal Procedure Code introduced a number of changes and additions regarding the introduction of electronic technologies into the criminal process. In particular, it is worth noting Articles 91¹ - 91⁴ of the CPC, which states that investigative actions (interrogation, identification of persons and objects, confrontation) with the participation of witnesses, victims, suspects and accused can be carried out using technical means in the mode of video conferencing [2]. In addition, the Criminal Procedure Code has introduced norms that imply the possibility of electronic document flow in criminal proceedings.

However, it should be recognized that the national criminal justice system is at the initial stage of digitalization. Do not forget that the electronic process should consist of the automation of the trial, as well as the implementation of the investigation in electronic format with the ability to exchange electronic procedural documents.

These changes make it possible to completely transfer the stage of pre-trial investigation to an electronic format, which in turn is one of the most urgent tasks in the development of the state mechanism. The solution to this problem is a response to the challenges of the modern information society and an integral component of the strategy for the future improvement of legislation and law enforcement practice in the field of organizing pre-trial investigation. The formation and implementation of such a strategy necessitate a clear understanding of the methodological foundations in criminal procedure legislation. Without their uniform and unambiguous establishment, it is impossible to carry out pre-trial investigation in electronic format at the proper level. Such uniformity is extremely important precisely in the field of organizing pre-trial investigation in order to comply with the constitutional principle of equality of all before the law and court.

In addition, do not forget that the efficiency of justice is currently a hot topic. The judicial system is expected to operate as efficiently and efficiently as possible, but in reality, this is not always the case. As a result, the trial takes more and more time, and the consequence of this is an increase in the workload of the pre-trial investigation bodies.

This lag indicates that our system is not yet sufficiently adapted to the needs of society in the 21st century. The electronic justice system is one of the elements of public administration, which is currently considered as a way of organizing state power using information networks, ensuring the effective functioning of government bodies in real time and making the daily communication of citizens with them as simple and accessible as possible. In this context, electronic court proceedings can be defined as the use of modern information technologies in court proceedings. It provides for the automation of criminal procedural legislation and the implementation of pre-trial investigation in electronic format.

The possibility of carrying out pre-trial investigation in electronic format can be considered as one of the manifestations of the processes of globalization, which also covered the legal sphere.

The history of the formation of electronic justice in the world is inextricably linked with the informatization of wide areas of public life and the penetration of computers into the everyday life of citizens and organizations. After all, law, as a universal social regulator, not only streamlines public perception, but also, often, fixes its main changes and, having caught promising trends, actualizes one or another direction of social development.

In support of the above, researcher Woolf H.K. believes that electronic support not only helps to optimize and improve existing systems and processes, but most likely, over time, it will itself become a catalyst for radical changes. Information technologies of this kind in the near future will become the basis of the judicial system and for this reason already now deserve special attention at the highest level [3].

According to O. Martyanova, like globalization, the introduction of advanced technologies is inexorable and inevitable. A society that tries to resist them will become a victim of it. They will fly far off the sidelines of the information society to do the dirtiest work for it [4].

The legislator in matters of regulation of the activities of pre-trial investigation bodies carrying out proceedings in electronic format should, in our opinion, borrow the most successful law enforcement practices of foreign countries.

In particular, we believe it necessary to consider the best practices of Singapore, where, to facilitate the adoption of judicial decisions, all judges have access to a comprehensive set of online legal information systems, such as:

- Law Net Legal Workbench, which provides smart searches in legal databases;
- Judicial Service Database (JODB), which contains court working papers and compilations, Sentencing Rules System (SINGS), which provides sentencing criteria and information;
- Resource Priority Management System (IMPRESS), which records all past decisions in cases brought before both the Supreme Court and the subordinate courts.

Researchers Bell Gordon and Gray N. Gray believe that “Singaporean courts take a strict and businesslike approach to technology. Technology is useless if it prevents the judiciary from better meeting the needs of its users or making it more efficient. Therefore, we consciously and persistently use technology, but only if it contributes to the achievement of the goals on which the courts are based” [5]. They see technology as a strategic leverage point in their quest to provide enhanced accessibility and convenience, as well as innovative application opportunities for all who seek legal advice from specialized bodies.

In Singapore's National Economic Plan for the 21st Century, information technology has been identified as the primary engine for sustaining the country's continued economic growth in a globalized knowledge economy.

Electronic justice in Singapore in terms of organizational and legal support is implemented by means of:

- Provision of services and applications for virtual ships;
- Computerization of business management processes;
- Joint development of interdepartmental systems;
- Computerization of judicial administration and corporate services [6].

Singapore is one of the first states to provide extensive virtual judicial services to the public through multimedia applications. For the first time in the courts of Singapore, videoconferencing was used, which is currently the most versatile and productive technology of our time.

In this regard, David F. Hill commented that "the introduction of video conferencing has made it possible to overcome physical distances. This has improved the organizational framework in the normal course of the courts, allowing us to optimize the use of our limited resources and achieve targeted results with less time and cost that would otherwise have to be incurred. Most importantly, it has expanded public access to justice" [7].

Singapore, in addressing the conduct of an investigation, proceeds from the position that good case management is fundamental to an effective and efficient judicial system. Electronic business management systems were reflected in the first wave of computerization of the country and are represented by the following systems:

- System of registration and information on criminal cases;
- System of subpoenas for regulatory offenses;
- System of electronic circulation in civil cases.

In June 1999 the TICKS 2000 system was introduced to manage the affairs. The TICKS 2000 system provides online interfaces for law enforcement agencies for electronic data exchange. For users who do not have their own case management systems, the courts provide them with remote access to TICKS 2000 so that they can register and receive information about their cases online.

The "TICKS 2000" system allows you to send court documents electronically using electronic documents instead of paper [8].

In the United States, the concept of filing documents in electronic format through the Internet resources originated in 1980 and was continued thanks to the pilot projects used at that time, which subsequently made it possible to strengthen and gain the proper potential for the introduction of electronic document management in Federal Courts (2003).

Electronic justice in the United States dates back to the creation of a multidisciplinary functional system "Public Access to Court Electronic Records" (hereinafter - PACER).

PACER is a public access system for US District Courts and Court of Appeals. One important feature of PACER systems is its commercial component, that is, users can request information of interest to them for a fee.

Together with the PACER system, the “Case Management / Electronic Case Files” system (hereinafter - CM / ECF) began to operate. CM / ECF is a system that allows electronic filing and management of criminal cases.

Thus, in the United States, an electronic investigation is carried out through the functioning of two independent systems PACER and CM / ECF, where the PACER system is used for public access to electronic court records, while the CM / ECF system is used for case management and electronic filing of court records. Documents [9],

As the name suggests, the CM / ECF system is the result of a combination of tools that provide two functions: Case Management (CM) and Electronic Case File (ECF). The two elements of the system then form an integrated system, complemented by PACER, a system that provides access to electronic files via the Internet.

The list of functions provided by this system can be summarized as follows:

- keeping records (tracking requests, responses, deadlines and hearings);
- management of electronic documents, their storage, security and archiving;
- delivery of documents to the court, from it and within it;
- additional information from other parties when submitting documents [10].

Access to these systems is carried out by means of using the username and password assigned by the relevant federal court. In some courts, these data are formally equated with an individual electronic digital signature.

It is also important that the use of electronic justice systems operates around the clock, when sending criminal case materials in electronic format to the competent authorities (court, prosecutor's office, etc.) does not require any additional costs from users in comparison with sending documents on paper.

Taking into account the fact that the USA is a federal state, each court of the US state has implemented and uses its own local version of IT systems based on the common platforms PACER and CM / ECF [11], which in our opinion is a negative factor, since until now Since then, a single centralized organizational and methodological mechanism has not been developed to support the activities of the investigation bodies carrying out proceedings in electronic format, which, as a result, may negatively affect the entire e-justice system.

In addition to the positive experience in world practice, there are unsuccessful attempts to transfer criminal proceedings to an electronic format. For example, in 2005, Belgium took a step

towards the digitalization of justice by introducing the PHENIX system. The PHENIX system was expected to increase efficiency and effectiveness, and to simplify and speed up the investigation process. The goal of the PHENIX system project was to transform the various computer systems of crime investigation bodies and the judicial system into a structured, coherent whole [12].

According to sources, this was one of the most ambitious projects, because the PHENIX system intended to digitize the entire legal system at once, but for objective reasons (high financial costs) it became clear that this was impossible [13]. The PHENIX project can be seen as a large-scale but unsuccessful attempt to move the investigation phase from paper to electronic format. Despite this costly setback, Belgium continues to try to bring the PHENIX project into action.

Based on the foregoing, it can be concluded that no state can be sure or even assert that its experience in administering justice in electronic format is the most technologically advanced in the world. Technologies are developing at a rapid pace and there are no prerequisites for weakening their development. In a growing and accelerating cycle of development, progressive technologies will stimulate the development of more and more innovative applications, which, in turn, will stimulate legislative bodies to develop a set of measures for organizational and methodological support of the activities of pre-trial investigation bodies that carry out production in electronic format.

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