Hungary

Zsolt Ződi

1. The Use of Legal Technology in Hungary – General Picture

1.1. Introduction

The digitization of the justice sector started in Hungary in the early 2000s and was rather uneven. Some organizations, such as prosecutors, notaries, or some registration court proceedings, used state-of-the-art technology relatively early on, while litigation courts were lagging behind for quite some time. This lag amongst the attorneys is still existing.

The main reason for the court's lag was that in 1998 an organizational structure was established in which the third branch was completely separated from the rest of the central administration and government. This was favourable in terms of judicial independence, but not in other respects. The lobbying and fundraising power of the courts has diminished in the absence of government representation, and the closed organization has not perceived the technical challenges intensively enough, so it has not been able to keep up with them.

The main reason for the lag of advocacy was the extremely fragmented structure that still exists today. More specifically, the reason is that more than 98 % of law firms has fewer than 9 employees, and 80 % of the total attorney population works in such offices.[1] The number of cases in these offices is not large enough and the complexity of the division of labour is not worth it to automate the office. Moreover because of the average small size, and lack of complexity is not economical for manufacturers to develop software for such small practices. The digitization of the legal sector has therefore taken place almost exclusively as a result of legal rules imposing duties to the state and the third branch.

1 Péter Homoki: Overview on the average state of the art of IT capabilities of small law firms in the European Union. Presentation within the framework of AI4Lawyers Project (Council of Bars and Law Societies of Europe, 2021. under publication) 6., 8. I am grateful for Péter Homoki, to hand me his presentation in a draft form.

In the following, I present the legal technological status of the three major judicial sub-sectors separately.

1.2. Technology at the Courts

Until 2011, the Hungarian court system was characterized by island-like developments. However, digitization has already started in four areas. 1. JIIS (Judicial Integrated Information System- BIIR in Hungarian) was introduced in the beginning of the 2000s. This system performed basic administrative tasks (registration of documents – without digital document management functions, and production of basic statistics). 2. Hungarian courts have been using electronic legal databases since the late 1990s because relatively advanced market solutions were available. 3. The use of traditional office software (word processors) gained momentum when, in 2005, the Hungarian Freedom of Information Act made it mandatory to publish judgments in large numbers. 4. A registration-type court procedure, the company procedure, was started to be digitized very early, so this procedure became almost completely electronic from the end of the 2000s. (see section 3.4.1)

2011 was an important year in court informatics. This is when the new judicial organization was created, in which the administrative tasks were taken over by a separate organization, with a president dedicated to digitization. It was then that four developments were launched that still characterizes court informatics today. 1. Development began, and from 2018 onwards, the so-called E-trial system has been introduced. E-trial is an integrated case management solution that enables simultaneous electronic communication and in-house court case management. (see point 3.)[2] 2. The court's own video conferencing system, the VIA VIDEO system, has been put in place.[3] 3. As a significant part of the Hungarian judiciary still dictates the text of judgments and other documents, the court has purchased a speech-to-text system (dictation software) that facilitates the

2 "E-per 2018" on the website of National Office for the Judiciary. ("E-trial" 2018 in Hungarian) < <https://birosag.hu/elektronikus-kapcsolattartas/e-2018> accessed 1 March 2021, and a shorter English version: "Digital Courts" <https://birosag.hu/en/digital-court> accessed 1 March 2021.

3 "VIA VIDEO projekt" (in Hungarian) <https://birosag.hu/video-projekt> accessed 1 March 2021.

digitization of documents.[4] 4. The information surfaces of the court have also been renewed, so new search software helps the clients to find out about the publicly available app. 170,000 judgments.[5] In addition to the four major directions, minor improvements have been launched, such as simple document assembly solutions in certain fields. I will talk about the details of the current court system in point 3., and about the future plans in point 6.

1.3. Technology at the Public Prosecutors' Organisation

Although the office of the public prosecution does not publish information on the IT systems of the organisation, what can be known from the limited resources is that the IT equipment of the prosecution is generally better than that of the courts. This is partly due to the fact that the prosecution is part of the law enforcement system, and here at the turn of the millennium serious developments took place, e.g. it was then that the "RoboCop" system was introduced[6] in the police and then in the prosecutor's office a software to analyse the information stored in it. As it is visible from the parliamentary budget protocols, the prosecutor's office started the Introduction of an Integrated Records and Ducument Management System (IIDR), which will replace records management stored in individual island-like systems. The same material notes that the increase in electronic records and data exchange as a result of the pandemic has highlighted the difficulty of data exchange between organizations.[7] In point 6, I will talk briefly about this trend.

---

4 "A beszédfelismerő és –leíró szoftverek" ("Speech recognition and speech-to-text software" – in Hungarian) <https://birosag.hu/beszedfelismero-es-leiro-szoftverek> accessed 1 March 2021.

5 "Bírósági Határozatok Gyűjteménye" – in Hungarian – "Collection of Judicial Decisions" - <https://birosag.hu/birosagi-hatarozatok-gyujtemenye> accessed 1 March 2021.

6 See 18/2011. (IX. 23.) ORFK utasítás a Robotzsaru integrált ügyviteli, ügyfeldolgozó és elektronikus iratkezelő rendszerről (in Hungarian – No. 18/2011 directive of the National Captaincy of the Police [NCOP] on the „Robocop" integrated case- and document management system) <https://net.jogtar.hu/getpdf?docid=A11U0018.ORF&targetdate=&printTitle=18/2011.+%28IX.+23.%29+ORFK+utas%C3%ADt%C3%A1s&getdoc=1> accessed 1 March 2021.

7 Parliamentary protocol on the explanation of the 2020 budget. Public prosecution section. <https://www.parlament.hu/irom41/10710/adatok/fejezetek/08.pdf> accessed 1 March 2021.

1.4. Technology at Law Firms

As I mentioned above, the legal profession is extremely fragmented and the gap between large offices and lots of small ones is huge. While large international law firms use relatively sophisticated case and document management software and many already experiment with artificial intelligence (natural language processing) based solutions, for 98 % of law firms the digitization is limited to standard office software and free software used due to state-imposed procedures. I will talk about these in point 3.

2. Blockchain within the Government

Neither the public administration, nor the judiciary use blockchain (distributed ledger) technology for registration purposes, and cryptocurrencies are in the grey zone in terms of legality too. Although they are not banned, the Hungarian National Bank has drawn attention to the dangers posed by cryptocurrencies and ICOs several times, most recently in 2020[8].

3. Electronic Communication on the Courts

3.1. A Short History of Electronic Litigation in Hungary

Electronic communication gradually appeared in the Hungarian court system. The "E-trial" became effective from 1 January 2013, although it was originally optional only in cases falling within the jurisdiction of the county courts. From 1 July 2015, it has been possible to file an application and other pleadings, as well as their annexes, electronically in all courts and at any stage of civil proceedings. Although the mandatory use has been *de iure* introduced already by the old civil procedure code in the 2009, *de facto* the use of the electronic procedure started after more prolongations only in 2016 with the entering into force of the new code on Civil Procedure.(Act CXXX of 2016.)[9]

---

8 Magyar Nemzeti Bank, 'Kriptovaluta, nyereségrészesedési jog: fokozott befektetői kockázatok' (mnb.hu, 14 February 2020) <https://www.mnb.hu/sajtoszoba/sajtokozlemenyek/2020-evi-sajtokozlemenyek/kriptovaluta-nyeresegreszesedesi-jog-fokozott-befektetoi-kockazatok> accessed 1 March 2021.

9 PéterSzalai ,'Elektronikus kommunikáció a polgári perben' in Gergely G. Karácsony (ed) *Az elektronikus eljárások joga* (Gondolat, 2018)

3.2. Legal Basis

In Hungarian law, electronic communication and administration are a regulated process on two levels. The general basis of the procedure is the law covering all proceedings (ie not only court, but proceedings within all public administration) by Act CCXXII of 2015. on *General Rules for Electronic Administration and Trust Services*.

Section 8 (1) of the law states in general that "The client - (...) - is entitled to perform his / her administrative acts electronically and to make his / her statements electronically before the body providing electronic administration."Accordingly, it makes the electronic process essentially entirely mandatory (Section 9 (1)) saying that electronic administration is the responsibility of all public bodies and legal representatives (lawyers).

On the second level of regulation there are specific laws regulating specific procedures. One of this is the already mentioned Act CXXX of 2016 on Civil Procedure. The law refers to electronic procedure in several places, but Part Ten deals with the use of electronic technologies and devices. The essence of the provisions is that lawyers are obliged to follow the electronic path and can only communicate on paper in exceptional cases.

Another main procedural act is Act XC of 2017 on Criminal Procedure, which regulates the electronic procedure in criminal matters. Chapter XXVII of the Act Its settles the issue, similarly to the Civil Procedure Act: lawyers are required to communicate electronically with all organization involved to the procedure, including with the courts.

3.3. Details of the electronic communication with courts[10]

In this subsection, I deal with the court (electronic trial - E-trial) system in more detail, I only touch on the other two, less important electronic procedures.

<http://real.mtak.hu/80535/1/e-elj%C3%A1r%C3%A1s-jog_Tank%C3%B6nyv_LO.pdf> accessed 1 March 2021.

10 The most comprehensive practical guide of the procedure: Péter Homoki: „Tájékoztató az elektronikus ügyintézésről az ügyvédi tevékenységet végzők számára" (in Hungarian: "Guide to Electronic Case Management for Attorneys") <http://www.homoki.net/images/180901_Tajekoztato_eugyintezes_2018_tc.pdf> accessed 1 March 2021.

The system of judicial electronic communication consists of two subsystems. 1. A central government system and a 2. court system. The two subsystems are further broken down into sub-subsystems.

Ad 1. The central system performs authentication, hosting, and has a form-filling module. Customers download and use the General Form Filling Software[11] and the official forms on their own machines.

All other documents (attachments, documents not submitted in printed form) must be converted to .pdf. The documents containing the forms and attachments must then be packed together and signed. This must then be electronically signed and uploaded as a package to the customer gateway, which the customer gateway forwards to the court subsystem. Compliance with the document is guaranteed by the electronic signature.

It should be noted here that instead of the electronic signature, the Document Verification Based on Central Identification function performed by the Central Identification Agent can also be used.

Ad 2. The package is then forwarded to the court subsystem, which then distributes it to the relevant court. This subsystem performs the registration, and it also has certain workflow management and document management functions like search and metadata handling.

3.4. Special Electronic Procedures that are Highly Automatised

3.4.1. Company Registration Procedure.[12]

The company procedure (registration of companies in the business register - and change of its data) is one of the oldest electronic procedures in Hungary. This is an advantage, but also a disadvantage. Since it was first developed, it still represents a completely unique solution.

In Hungary, the business register is maintained by a special court. The procedure in this court is one of the oldest electronic procedures and in some parts fully electronic, fully automated. Its specialty is that it differs

11 Description of the software in Hungarian: „Tudnivalók a nyomtatványkitöltő programokhoz" (in Hungarian –„User Guide to the form filling software") <https://www.nav.gov.hu/nav.gov.hu/nav/letoltesek/tudnivalok_nyomtatvanykitolto_programokhoz.html> accessed 1 March 2021.

12 Guide of the Company Service of the Government (Cégszolgálat) – "Elektronikus cégeljárás" (in Hungarian – "Electronic Company Registration Procedure") <https://ceginformaciosszolgalat.kormany.hu/elektronikus-cegeljaras> accessed 1 March 2021.

from the e-litigation procedure described above, because it is not done through the central address (client gateway or enterprise gateway), but via normal e-mail. While the process for e-litigation looks like this

Filling out forms> attaching attachments> logging in and identifying in the central system> pre-checking data in the central system> uploading documents to the central system

Until then, the order in the company procedure is as follows

Filling out forms> attaching attachments> packing and signing documents on your own machine> sending the signed file package to the central system, or a dedicated email address > the system checks the data.

3.4.2. Order for Payment Procedure.[13]

An order for payment procedure is a pre-litigation non-litigation procedure in which the applicant requests the issuance of an order stating the reasons and, unless the debtor objects, it becomes an enforceable instrument and, if it does, it becomes a lawsuit. The specialty of the procedure is that it is performed by a system operated by the Chamber of Notaries and is only suitable for the enforcement of small monetary claims (less than HUF 3 million).

The payment order procedure is a kind of hybrid system, because the application must be uploaded to the system of the Chamber of Notaries, not by e-mail, but not to the central system operated by the central IT company (NISZ Nemzeti Infokommunikációs Szolgáltató Zrt. – National Infocommunication Corporation[14]), but it must be uploaded to a system operated by the Chamber of Notaries.

13 See the dedicated website of the service on the website of the National Chamber of the Hungarian Public Notaries (in Hungarian) <https://fmh.mokk.hu/#x> accessed 1 March 2021.

14 <https://www.nisz.hu/> accessed 1 March 2021.

The three electronic procedures above can be described in the table below:

	E-trial	**Company registration procedure**	**Order for payment procedure**
Method of requesting data: via form / document / mixed (form + attachment option)	Mixed	Mixed	Form
Filling out forms: online or offline	Offline	Offline	Online
Authentication of parties: with electronic signature / otherwise / both possible	Both	Only electronic signature	Both
Submission of documents: uploaded by e-mail / system	By system	By email	By system
Once uploaded, there is a central submission or to the organization's own hosting	Central	Central	Own

It can be seen from the table that the picture is rather mixed regarding the three electronic procedures and well reflects the divergence of the procedures developed independently at different times, which poses a big challenge for lawyers, and especially for small law firms.

4. Online Procedures

We need to divide the subject of online hearings into two, on the one hand, hearings that are held entirely online, and on the other hand, hearings where certain procedural acts are conducted online. (Hybrid systems.) The latter has been used since the enactment of the VIA VIDEO [15] a video system set up in 2018, which allows certain procedural acts, mainly witnesses, to be heard and recorded. In recent years, Hungarian courts have started to use the system, though not en masse. (200 times in 2019, which is minimal, compared to the some hundred thousand hearings per year.)

Completely online hearings cannot be held in Hungary under the current rules of procedure. However, as a temporary rule in the wake of a

15 see point 1.2.

pandemic emergency, 74/2020. (III. 31.) Regulation of the Government made it possible to hold e-hearings in both civil and criminal cases. In practice, this has only been applied in civil cases by courts again in very small numbers using Skype for Business. In addition, in civil proceedings, the law allowed proceedings to continue without trial.

There are no more advanced online procedures (such as online dispute resolution systems) in Hungary.

5. Use of Artificial Intelligence, and Automated Decision-making

There is currently no artificial intelligence-based (if we consider machine learning as a distinguishing feature of AI) application in the justice sector. There are currently no fully automated decisions in the justice sector, such are only available in some areas of public administration in Hungary. In the company registration procedure there is a theoretical possibility to make automated (3.4.1) registration, but this has not been used in the past few years.

6. Future Plans

As I indicated earlier, the Prosecutor's Office is currently working on a project to standardize records management. IT developments in the courts are currently underway with much less force than in recent years, with no major development projects on the horizon. There will be developments because of the pandemic on the video systems, and on the extension of the scope of the document assembly system. Although no plans have been made public yet, the development of the current company process, which was developed in the late 1990s and then in its late form in the late 2000s, has been in the air for years. Most law firms have so far been only sufferers and not controllers of digitazition, a trend that is likely to continue in the future, as well as the huge IT development gap between large and many small law firms.