

Modernising the Courts, Land Registers and Cadastre

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Original paper
UDC 347.9:681.3(497.5)
Received in June 2001

Computerisation is a process taking place in all segments of human society. Croatian law courts will have to undergo implementation of new sophisticated computer technologies.

Bad working conditions in law courts are the primary problems requiring judicial system computerisation. In computerisation of the court register of commercial courts all data should come from a central database, immediately showing information recorded in specific registers. It is necessary to pass special regulations such as a book of rules on transformation of manually kept registers into electronic databases, and a book of rules on keeping and maintaining such databases and on permitting access to data using electronic communication.

Keywords: Croatia, computerisation, legal system, law courts

1. Introduction

At the beginning of the third millennium, the law courts in Croatia will face implementation of new and sophisticated computer technologies. Much attention is currently being given to this for only highly computerized judicial system can become quicker, more accurate and timely in rendering the right information. In a word, the advances in computerization are useful at all levels of society.

Computerization is a process going on in all segments of human society. Therefore, one cannot avoid systematic application of computerization in judicial system.

Initially, it must be pointed out that according to the Law on Courts, Law on State Attorneys, and Law on State Public Attorneys the Ministry of Justice as an executive body providing preconditions for the work of law courts is in charge of computerization.

The problems encountered in computerization of judicial system originate before all in its bad infrastructure, i.e. bad working conditions in law

courts. In many of them, before anything else, new electrical installations, provision of adequate rooms suitable for modern technologies, plus training of judges and junior court employees will be needed.

In the Croatian judicial system, computerization started at the end of the eighties then some law courts got their first computers for accounting purposes, some land registers and eventually in courtrooms.

Or precisely, computer technologies were to a large extent first implemented in law courts, at the beginning of 1997. This trend has been constantly increasing since then.

Law courts and other bodies of judicial system use computers exclusively for writing texts, partly for already created databases (e.g. related to people being prosecuted by certain law court), and in accounting departments. Presently, computers are mainly used in court and land registers kept at commercial and municipal courts, respectively.

But it is not only computers, printers, computer programmes that are necessary for implementation of computerization in judicial system. An all-inclusive specialized training of people dealing with new computer technologies will also be necessary.

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2. Present Situation

COURT REGISTER OF COMMERCIAL COURT - According to the Law on Court Register 1994, and the Company Act of the same year, Article 3 in particular, the register must be kept by commercial courts (i.e. register courts as these are called in the law).

The main book of this register must be electronically processed, i.e. in a computer. The main book in the computer is then linked to the unique database for the entire Republic of Croatia.

Article 4 of the Law on Court Register says, that this court register is public. In other words, everyone is entitled, without giving any reasons for his legal interest, to see the information entered in the main book and public data in the collection of documents as well as apply for issuing of an extract or transcript from database.

On 12 May 1997 the Government of the Republic of Croatia passed a Decision on the Art, Conditions, and Fees for the Use of Information Contained in Court Register. According to the decision, approach to data in court register is made through Internet. Application for this and request for termination of entitlement to the approach to information in court register are made to the President of the Croatian High Commercial Court. It then either approves or terminates the permit for the approach to the information in court register to the authorised user.

A user code and corresponding password will be needed for entry into the telecommunication, computer and application system of the court register.

Every single approach to the court register through electronic link is automatically branded with the corresponding user code, date and time of application and termination. Equally so, every unauthorised attempt to such entry is recorded. Efforts are also made to define the site where such entry was attempted.

Notary publics, attorneys at laws, banks, chambers of commerce, are potential users of the information contained in court register. For such entry they must pay a single fee plus a monthly subscription. Every entry to data sub-base must also be paid.

Revenues from the use of court register add to the revenues in state budget.

Which information can be obtained by electronic approach to the database of a court registers at commercial courts?

Important to note is that current information can be obtained. The information that is no more valid, and as such given a special code, may also be approached.

All data come from a central database, which immediately shows every single information re-

corded in a certain register. Presently, there are nine commercial courts, one high commercial court, and three commercial courts information databases in the Republic of Croatia.

As seen above, users of information may get all data recorded in a court register, such as, for example, company name (full and abridged), seat, name of the person authorised to represent the company, scope of its activities, etc.

We can say that in Croatia only public registers and users are well linked through the computers used by court registers of the commercial courts.

LAND REGISTER - The Law on Land Registers provided legal preconditions for the implementation of computerisation in registers on real estates in the Republic of Croatia. Added to this there are also cadastral registers on real estates. They keep records on land site number, shape, surface area and buildings on such land sites. Land register in its present form deals with legal matters concerning ownership and other real rights on real estates, mortgages and other burdens. According to the provisions of Article 85 of the new Law on National Surveying and Real Estate Cadastre as published in the National Journal No. 1281/1999 of 30 November 1999 the Real Estate Cadastre is joined together with the land register kept at land register departments of a court by the use of electronic data processing into a land data base. It is mutually organised by the Minister of Justice and the Director of the National Geodetic Administration.

A possibility to process the information contained in land registers is given by Article 6 of the Law on Land Registers. In this case such records are called computer aided and processed land registers, or *EDP* (EDP Land Register).

In other words, computer aided and processed land register and computer aided and processed real estate cadastre together make Land Register Data Base of the Republic of Croatia (or, in short, *BZP*), kept uniquely and centrally for entire Croatia.

As regards this public register pilot projects are carried out in six different Croatian towns, i.e. Varaždin, Županja, Osijek, Rijeka, Pula and Zadar. The purpose is to get typical situations for individual areas. Due to differences in the conditions of local land registers (some in better, others in very bad conditions), and bad cadastre surveying, very often inaccurate and out of date.

These pilot projects will provide the necessary programmes to keep such register in and through computers. Above all, it was necessary to amend the existing and produce new networks in all the places above, supply their courts and land offices with necessary equipment, and train the staff.

The Law on Land Registers provides only the general guidelines for land registers on data processing bases. In very near future it will be, therefore, necessary to produce a whole series of bylaws to govern the transformation of manually kept land registers into computer data processed land registers, as well as the way of handling such new registers.

As regards land registers, following the creation of a unique land database, notary publics, attorneys at law, and other natural and legal entities will also be given opportunity to have specialised equipment to approach the Land Data Base, i. e. the above said computer aided and processed land register in their offices. But we shall leave this discussion for the future because the work on the creation of a unique land database is still ahead of us.

3. Strategies For The Future

There is a clear strategy in the Ministry of Justice, Administration and Local Self-Government for delivering information and services in the legal field to the citizens and other users.

The main elements of the strategy are:

- a) Every existing or planned register or database that is under jurisdiction of Ministry of Justice, Administration and Local Self-Government should be provided and maintained using information technologies. This should be established for all registers, regardless of how they are treated and used by judicial bodies.
- b) All registers that by the law contain public data should be kept by computerized data processing as public databases, and administrators of those public databases should open them up for on-line access. It means that everybody - and not only those who have legal or professional interest - will have the possibility to get direct access to the appropriate database.
- c) Access to public databases should be specific for different groups of users, allowing them to get specific views and information, according to their needs and access rights (For instance: for the Land Registration Data Base, these groups of users are: the citizen, private notaries and lawyers, private licensed surveyors and surveying companies, land administration office in a local court, local cadastral offices, other courts and judicial bodies, as well as other ministries and state institutions). There also should be a possibility for users to get informal data for just viewing purposes, as well as fully formal and legally valid information or document from the system.
- d) The realization of the strategy proceeds in two directions:

- For each specific public database there is a judicial expert team, that has to prepare the plan of changes needed in the legislation, administration and organization, to initiate the elaboration of necessary studies and projects, and to verify the results;

- The IT Division in the Ministry of Justice, Administration and Local Self-Government is responsible for the technical implementation of those systems. They are preparing requests for proposals and bidding documentation for consulting, software, hardware and networking infrastructure, organizing the

- necessary education of the court employees, and ensuring system availability and maintenance.

Unfortunately, we cannot say that the strategy forms a part of a wider national framework, neither is it a part of the strategy for state organizations, or coordinated by a state institution.

There was an attempt in Croatia in mid nineties to establish a computerisation strategy for state organizations, but without significant success, and the institution responsible for carrying out that task no longer exists. Some of the reasons for failure are: there were too many differences in perception of their own role, competence and responsibility, and finally, slowness and inefficiency in realization of the concept, which was unacceptable for most of the ministries and state organizations.

4. Changes Needed

In order to deliver the strategies, it is necessary to overcome problems or change the way we do things in present. These are some changes we can envisage for:

a) Legislation

Most of the new laws contain only basic provisions on registers kept by computer processing of data and respective procedures. The basic principle of the computerization is that the introduction of informational technologies alters only the technique, but the law is not essentially amended in either substantive or procedural way.

The enactment of the law is not a full normative regulation of the procedure for the transition from manually kept to the computerized register, especially when the computerized solution should serve as a public database, or even has a complex structure (cadastre data on the form, size and use of the land, as well as the data from the land court on legal status of land are stored in Land Registration Database).

Therefore it is necessary to pass special regulations, for example - a book of rules on the trans-

formation of manually kept registers into EDP kept registers (database), a book of rules on keeping and maintaining of such a database, a book of rules on enabling access to the data using electronic communication, etc.

b) Processes, legal and/or administrative

Probably, most of the changes we can expect belong in the administrative and organizational domain. Some data flows that are redundant and processes, which have only the control function, without changing the content of data, become visible in every project of computerisation. In a computerized system these data flows and processes (or document flows) could be avoided, giving the opportunity for more efficient working procedure, and respectively, for the introduction of some changes in administrative process.

When data are stored in a computerized system there are also new possibilities, unlike the manual keeping, in retrieving and getting complex information as well as in data exchange, which can also influence further administrative changes.

c) Technology

At present, most of the computer equipment is primarily used for office automation. The idea is to establish local systems connected into Local Area Networks. The next step is to introduce the closed connected computer network, with high security available, based on a distributed data processing concept. In the near future, the replication of data would be possible through an Internet server, allowing potential external users the access to the data through public networks, with only a PC and a telephone line.

d) Gaining acceptance by users, both internally and externally

Most of the internal users whose working process is being supported by computers have adopted new information technologies very fast and with enthusiasm, emphasizing the need for an integral computerization of judiciary.

Some problems we might expect in gaining acceptance of internal users are:

- The need for better professional education and permanent training of judicial officials and employees;
- The need for special training in using information technologies, especially the official training for various types of personnel who access the database in order to carry out transactions;
- There are some difficulties with elder users, when being afraid of using computers and new technologies;

- Typically, a very large amount of data exist in manual registers, so the process of data collecting should be as quick as possible in order to get a complete system in use.

5. Benefits from Computerisation in Judicial System

This benefits as results of applying new computer technologies in judicial system may be divided into several categories.

Ordinary people, citizens, will benefit from modern computer technologies before anybody else. These technologies will enable more rapid meeting of their demands, ensure more accurate and timely administration of public registers, and result in less time spent by people to achieve their goals in this respect. General public will get direct access to data – so far they could only exercise this right by visiting the courts and cadastral offices.

In addition, well-structured real estate registers will ensure the constitutional principle of the inviolability of private ownership.

Furthermore, other beneficiaries will also be **notary publics, attorneys at laws, banks, and insurance companies**. They will be able to see from their offices who is authorised to represent a company, who is the owner of a certain real estate, thus making finally their work less expensive for a general user.

The third category of beneficiaries is **courts and land offices**. They will finally have well-kept and well-organised registers, potentially less lawsuits and disputable cases. Regulation and court practice databases will result in stronger legal safety and legal state.

Finally, the **state itself** will also benefit from modern computer technologies, by being able to collect more taxes and duties due to an increasing number of various requests and applications. This might in the future provide grounds for foreign investments, etc. On the other hand, the awareness of the integrated nature of the legal framework, would create a political and managerial environment to optimise ongoing IT and organizational developments.

Due to rapid technological development, there is an impact of data sharing on the **availability** and **accessibility** of information, as well as the impact of Internet on **dissemination** of information.

To conclude with, one can say that the implementation of the most sophisticated computer technologies in judiciary system is a must. Therefore, it must find its exact and proper place in the budget of every modern European country. ■