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The implementation of the use of electronic information technologies in pre-trial proceedings

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Abstract

This article is aimed at studying the current state and justification of the need for the use of electronic information technologies by the Internal Affairs agencies in the course of pre-trial criminal proceedings in the Republic of Kazakhstan via the analysis of theoretical and regulatory legal sources and the study of statistical information. In result, the increased use of electronic technology will

make it possible to provide electronic criminal proceedings evidencing, thereby modernizing the entire criminal justice system. In conclusion, creation and use of mobile computer systems for officials engaged in pre-trial investigation, to work on-site and specialized forensic systems.

Keywords: Electronic information technologies, criminal procedure.

La implementación del uso de tecnologías de información electrónica en procedimientos previos al juicio

Resumen

El objetivo de este artículo es estudiar el estado actual y la justificación de la necesidad del uso de tecnologías de información electrónica por parte de los organismos de asuntos internos en el curso de un proceso penal previo al juicio en la República de Kazajstán a través del análisis de fuentes legales teóricas y reglamentarias. El estudio de la información estadística. Como resultado, el mayor uso de la tecnología electrónica permitirá proporcionar pruebas electrónicas de procesos penales, modernizando así todo el sistema de justicia penal. En conclusión, la creación y el uso de sistemas informáticos móviles para los funcionarios que participan en la investigación previa al juicio, para trabajar en el lugar y los sistemas forenses especializados.

Palabras clave: Tecnologías de la información electrónica, procedimiento penal.

1. INTRODUCTION

Current trends in the development of human and society activity, its optimization and processes, objectively determine the

growing importance of information technology. In this aspect, electronic information technology occupies a leading position. The objective process of a fundamental change of human existence in the world is caused by deep shifts in the ways and types of active and interpersonal communication on a global scale. The information revolution of the late XXth century made the idea of an increasingly interdependent world a reality. Computerization, Internet, satellite communications link together the economy, science, culture of all countries and regions of the world. It creates a situation of communicative transparency, free passage, information flows that do not have any boundaries. The Internet forms a new virtual reality, a new empire with its own laws and regulations. And no one is able to resist this objective process unless wants to be on the sidelines of world history (Nysanbayev, 2016).

The use of digital technologies provides a number of advantages, including simplification of public and business access to public services, acceleration of information exchange, the emergence of new opportunities for public administration, business operations, and creation of new digital products. IT can assist with efficiency and productivity gains by allowing tasks to be conducted in parallel, by eliminating steps in a process, and by reducing the amount of time it takes to conduct a task. IT can also aid decision-making through its ability to store, condense, and display large quantities of information for developing and evaluating operational initiatives.

However, the benefits of IT do not come without significant resource investments. On the downside, IT requires substantial investments in training, maintenance, and coordination. Kazakhstan has chosen an active position in the use of electronic information technologies in the activities of state bodies and in the business sector (Alayeva, 2007).

Today, significant attention is paid to the issues and problems of regulation of legal relations related to electronic information technologies not only in Kazakhstan but also around the world: the regulatory framework is actively developing, a number of fundamental conceptual documents were put into effect.

In Kazakhstan, one of the global steps to create conditions for the implementation of current electronic information technologies and the transition to the information society was the State Program Informational Kazakhstan – 2020. Subsequently, the State Program Digitized Kazakhstan was developed, which determined the direction of further development and implementation of digital technologies, into the internal activities of state bodies as well.

The costs related to the acquisition of information and communication technologies by organizations, including in the field of public administration, increase annually –in 2007 the costs amounted to 53485.8 million tenges (currency in Kazakhstan), whereas in 2017 the costs spent were 349943.6 million tenges. In addition, while in the past the operation and use of such technologies have mainly involved

third-party organizations and specialists, in recent years the emphasis has been put on the training of own staff and the independent development of internal electronic information systems. Thus, assessing the current situation, it can be argued that in Kazakhstan, electronic information technologies have not only been actively implemented but also have been actively used in everyday life both by ordinary citizens and by organizations and government agencies.

2. MATERIALS AND METHODS

Special attention is paid to the use of electronic information technologies in the activities of state agencies, since the optimization of their activities is certainly one of the key indicators of the effectiveness of state power as a whole, ensuring the democratic foundations of the State and its competitiveness on the international scene. The effectiveness of the digitization of the state agencies activities is proved by the experience of foreign countries. Denmark is actively investing in the digitalization of government agencies. At the present time, every citizen and every business has a personal electronic account, which makes possible the communication with government agencies in real time.

Since 2015, all citizens must communicate with government agencies only through the Internet (in Denmark, 95 % of households have access to the Internet), each citizen has a digital passport (digital ID), and all government agencies and municipalities are connected to a

single network, which enables to interact with all departments through a single personal account. Business, in addition to communication, has the ability to conduct all operations via the Internet, receive statements, pay taxes and send reports (sending and receiving documents electronically takes 5 minutes compared to 5 days when sending in paper form). Such a system allows saving 10-20 % of the budget annually.

3. RESULTS

Pre-trial criminal proceedings and proceedings on administrative offenses are the most promising areas for the implementation and use of electronic information technologies in law enforcement activities of State agencies. This is justified, first of all, by the priority of the rights and freedoms of the individual in Kazakhstan, which protection is aimed at these types of proceedings. The other side here is the importance of observing the rights and freedoms of persons who in some capacity are involved in the activities of law enforcement agencies. Secondly, the use of electronic information technologies in the mentioned areas indeed can ensure the transparency of both the criminal process and the proceedings on administrative offenses. Third, the realization of these types of proceedings, including those with a punitive nature, affects almost all areas of the country's life, and a significant number of people is daily involved in this activity.

The increased use of electronic technology will make it possible to provide electronic criminal proceedings evidencing, thereby modernizing the entire criminal justice system. Zuyev and Nikitin (2017) present the implementation of the idea of electronic support of criminal proceedings in three main areas:

- Approval of the priority of the electronic information and signal model of criminal procedure evidence;
- Development of legislative rules on work with the electronic criminal case;
- Implementation of sentencing software into judicial practice using mathematical modeling and algorithmization of decision-making in the form of the electronic assistant.

At the same time, the above authors note that the electronic criminal case can successfully replace the paper one, which will significantly improve the quality of the investigation, reduce the risk of possible evidence falsification, facilitate the verification of criminal case materials, reduce paperwork and investigation time, facilitate the procedure of familiarization with the materials of the criminal case, ensure the safety of criminal case materials (Zuyev & Nikitin, 2017).

In particular, it entailed the introduction of such innovation as an electronic format of criminal proceedings. In accordance with part 1 of article 42-1 of the CCP of the Republic of Kazakhstan (hereinafter

CCP), this format is realized in parallel with the paper one. Now the person conducting the criminal proceedings, at the sole discretion and on the basis of a reasoned decision can conduct criminal proceedings in electronic format. Moreover, the law provides for the possibility of changing the format of criminal proceedings from electronic to standard paper. Throughout the year, this legislative proposal has been discussed among law enforcement agencies, at conferences and meetings in law faculties. Representatives of state bodies, international organizations, non-parliamentary political parties, heads of non-governmental organizations participated in the discussion of this issue.

The proposed information system is intended primarily for the digital storage of all information from the materials of specific criminal cases. Ideally, the digital information of the criminal case should completely replace the paper version, which is already formed with a high level of security. This system should have, according to the developers, the function of the formation of the entire criminal case, which contains a built-in algorithm of sequential procedural and organizational actions, starting with the registration of the statement and the report of the crime in the URPI, that means from the official beginning of the investigation until the end of the judicial review with the acquittal or conviction (Beliaeva et al., 2018).

The above order introduces a new concept of electronic criminal case Module (abbreviated as the e-CC module), that is, the enlarged functionality of information system Uniform register of pre-trial investigations intended for the organization of preparation, conducting,

sending, receiving and storage of electronic criminal case. In addition, a detailed definition of electronic criminal case concept is given, which means separate proceedings conducted by the criminal prosecution body for one or more criminal offenses in electronic format through the functionality of the e-CC module.

Also, such electronic media as PDF-document was established, which is an electronic version of a paper document or material identical to the original that must be attached to an electronic criminal case, converted by scanning into PDF digital format and certified by electronic digital signature. The transition of criminal proceedings to electronic format requires different approaches to paperwork. This, in particular, applies to the method of introducing into an electronic document the handwritten signature of the subject of proceedings. For this purpose, the use of a graphics tablet with a special writing pen – a signature tablet – is provided.

Another feature of the described innovations was the appearance of a special section in the URPI information system, called Public sector, owing to which participants in the criminal process can obtain remote access to the materials of the electronic criminal case, file complaints and petitions at any time and in any place, having only the access to the Internet and complying with the requirements of information security. Examining directly the process organization on conducting a criminal case in electronic form, the attention should be drawn to the specifics of the access of the official of criminal prosecution conducting body to a particular case.

The procedure provides for the official to pass the authorization and authentication processes that can be realized in three ways: by means of an electronic digital signature issued by the National Certification Center of the Republic of Kazakhstan; by entering a personal identification number-code (PIN) assigned by the Committee on Legal Statistics and Special Accounts; and through identification using a biometric reader – by fingerprint registered on digital certificates and personal data storage device.

In our opinion, designing and use of such a device will make it possible to avoid the red tape connected with the need of an officer to access a stationary workplace for recording the results of investigative actions, and moreover, it will be the main tool at implementation of procedural processes in rural areas and in the places remote from settlements, or at night. In view of the above proposal, the attention should be paid to the need for full technical support of departments engaged in criminal prosecution. Inadequate material and technical equipment are one of the main obstacles to the full transition to an electronic format of criminal proceedings. According to preliminary calculations of the Ministry of Internal Affairs, only Internal Affairs agencies alone need about 11 billion tenges for this transition. In addition, the necessary equipment will require an update every five years.

In January 2018, the first electronic criminal case was examined in the Abai district court of Shymkent. In this regard, the regional court noted the electronic format of criminal cases will reduce

the time of investigations and financial costs, minimize the risks of materials falsification, provide access to materials in real time, and simplify the procedure for collecting evidence and drafting procedural documents.

4. DISCUSSION

Nowadays, there is an active development of cybercrime, which object is legally protected interests that have arisen in connection with the development of information technology. In addition, today's virtually unlimited access to the Internet has made it possible to actively use these technologies for communication among crime participants. Global information networks are used for the committing acts specified in the criminal legislation of many states. Consumers of digital media spend a huge amount of time on the Internet, for the implementation of illegal actions among other things. Thus, in the United States, hacking has put the problem of cybercrime in the forefront. Actively developing and transforming criminality with the use of high technologies urges to join the process of computerization and wide use of information technologies (Nissan, 2009: (Kord et al., 2017) .

Studies of foreign scholars directly prove the impact of the effectiveness of the authorized official directly at the scene, the subsequent investigative actions and the results of a forensic examination on the effectiveness of further investigation of the

criminal case. The possibility of using modern information technologies is one of the indicators of such efficiency. The term Information technology, implying information processing processes, was introduced by scholar Glushkov (1962), who wrote: Information technology is considered as certain means of working with information, in particular:

1. Method and means of collecting information;
2. Information processing;
3. Transfer of information to obtain new information about the studied object (personal computer, telecommunication and multimedia means – radio communication, mobile phones, tablets, laptops).

According to Ishin:

The main purpose of using information technology is to obtain an information product for its analysis in order to reach a decision on the implementation of any further actions. Since the basis for information technology processing is a personal computer, its use along with modern telecommunication means has determined a new stage of development of information technologies (2011: 22).

At the same time, Korotnikov (2004) interprets information technologies as a set of methods and means that provide an information process, which is a complex of sequential actions

(operations) performed on information to achieve a certain goal and obtain a certain result. The information process here is an ordered sequence of actions aimed at creating new information and work with the existing. Considerable attention should be paid to the legality of the actual use of the opportunities and results of the use of information technology (Razavi et al, 2015; Peranginangin et al, 2019).

5. CONCLUSION

Thus, based on the analysis of existing scientific views of Natura (2015) and own conclusions, we can highlight some promising areas of use of information technologies in pre-trial proceedings in criminal cases:

1. Registration of criminal cases materials and official documentation by means of standard computer software.
2. Receiving additional counseling legal assistance through the use of automated legal reference systems, including the use of the Internet.
3. Creation and use of mobile computer systems for officials engaged in a pre-trial investigation, to work on-site and specialized forensic systems and laboratories for automation and improving the efficiency of search, detection, fixation, seizure and preliminary investigation of physical evidence.

4. Using the possibilities of the open Internet mail and private data transmission facilities for official correspondence in pending criminal cases, receipt and exchange of regulations, information and methodical materials (electronic official document management).
5. Automation and reduction of terms of preparation and performance of separate procedural actions.
6. The use of computer equipment, computer software, the capabilities of various databases, electronic communications and documents as evidence in criminal cases.
7. Implementation of mobile automated workplace capabilities of a person engaged in pre-trial criminal proceedings.
8. The use of computer technology to evaluate evidence in electronic digital form.

Further development of the electronic format of criminal proceedings in Kazakhstan, its optimization and adaptation to the realities of law enforcement activity requires a profound study of legal and organizational issues to ensure the use of electronic information technologies. The conclusions made, in turn, will enable further development of new proposals and recommendations for improving the use of electronic information technologies in pre-trial criminal proceedings.

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