

Wednesday, November 13, 11:00 – 12:00

Digital Access to Justice – Digital Courts and AI empowered Platforms

Tuomas Pöysti, Chancellor of Justice



Abstract:

My speech is about the promises and difficulties in digital access to justice around the question: can justice be realised and access to justice be improved through digital platforms and what would be a vision of justice through digital platforms. I will discuss the current state and future vision of the digitalisation of justice from a socio-legal perspective where sociological perspective also includes some economics of justice and information points of view. I will also make some comments on the future of legal informatics, but the presentation is mainly from a perspective of a constitutional Supreme Guardian of the Law and Human Rights in Finland trying to ensure that there will be an efficient, open, fair and cost-friendly access to justice in the digital society.

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Abstract (long version):

An efficient access to justice belongs to the fundamental features of rule of law and realisation of rights to fair trial and good administration in particular and the right to legal certainty in general. While Scandinavian legal systems including the Finnish one fair generally very well in indicators concerning rule of law and realisation of fundamental rights challenges remain in the access to justice. Finland in particular, has an issue with lengthy court proceedings and too expensive trials, the costs of civil litigation in public courts has gone up and beyond the reach of average middle age person whereas the number of cases in courts is falling down. Thereby we have a genuine bottleneck in the access to justice and alternative dispute resolution systems are not able to compensate for the scarcity of justice. Digitalisation changes the expectations concerning the delivery of justice, which is supposed to be faster, more efficient, more responsive and inter-active, of better quality and cheaper in digital formats. Digitalisation transforms the models in which public power, private organisations and individuals act and do business. Digital platforms empowered by Artificial Intelligence (AI) and using Big data and networks of services, production and delivery organised around platforms are the typical organising model of digital society. Platforms using structured documents and structured data enable also a completely new vision for the public administration, for which an example is the Nordic Smart Government –project concerning business registries, delivery of financial data and tax administrations. This change concerns very much the justice. Justice is expected to be delivered in digital platforms, and ultimately, be integrated into the digital platforms and procedures themselves. A trend on the platformization of legal services and justice is also visible.

Digitalisation is also a daily topic in the development of public courts and their working methods in all Nordic Countries. There are ongoing development projects towards digital courts in which the filing and internal work of the courts would be transformed digital; in Finland AIPA and HAIPA projects. Digital online dispute resolution also becomes more popular in the fields it is available and it is a trending topic in the scientific literature on the digitalisation of justice as well. Legal tech solutions are increasingly becoming part of everyday legal life in the private law practise starting from the big law firms but also creating possibilities for new types of legal services and services for the lower cost end of the pyramid. Academic and policy discussion both re-visit the idea of full automation of legal decision-making in courts and inquire on the human rights and legal certainty related preconditions of such automation. However, in practise public courts development work focuses currently on the digitalisation of the case & document management and information flows in the courts system. The public courts are not yet in the stage of entering into the use of AI beyond some search tools albeit there are also some interesting and promising AI experiments in the public sector. Automation and platformization provide in deed quite some promises to the quality of

justice and on improved access to justice but there is still quite a journey to go with some dangers as well. Legal tech promises and trending topics signal that many topics already discussed in the legal informatics in 1990s have come suddenly an increasingly main stream legal reality. Caution is, however, needed in what is revisited and what is authentically new. The machine learning - neural networks type of automation, which are ultimately based on statistical reasoning and pattern recognition, differ from the earlier ideas of the computing and computable law through programming the decision-rules into the computer software. The sociology and economy of successful taking into use is somewhat different. A well founded scientific insight on the maintenance of rule of law in the digital society where justice is realised in digital platforms is needed. To that an input from the legal informatics type of deep understanding of the encounters of law, technology and sociology and economy of justice is needed to address the socio-legal phenomena and practical issues of the deep digitalization of law. The future of access to justice is in the digital platforms as a structured feature and network of services.

