

E-commerce, Slovenian Attorneys and Social Responsibility – in Search of a Link

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E-commerce is today almost a necessity in any organisation, including the attorneyship, as a part of the judiciary system. In comparison to other parts of the judiciary system, the advocacy represents an independent public service, which makes it more sensitive to changes in its environment. The term social responsibility is generally used in connection to private entities, whereas the role of the state and public organisations is often forgotten. Attorneys around the world have realized the impact of increased competitiveness also in the legal areas and are therefore trying to adopt to the new demands of the »market« also via e-commerce. However, due to their specific line of business, where the social responsibility note is of the utmost importance, the area of e-commerce by attorneys is heavily regulated. In the paper we present the results of a study, which focuses on electronic filling and electronic communication as used by attorneys and attorneys offices and the results of the analysis of the web pages of slovenian attorneys, and we put both results in the perspective of the increasing need for a greater social responsibility of all organisations including those in the public sector.

1. Introduction

Information, knowledge and response are important factors of successful business. Public sector and judicature must also keep this in mind. So the administration is supposed to become »service of citizens«, which is aware, that the consumers search of new and kinder accesses to products and services. Judicature must disentangle itself from vice of delays, that paralyze its activity. In both cases, electronic method of doing business will be (and is) key element of renovation of business, which was already successful to a certain extent (see e.g. Sovdat 2007 or Batagelj 2006). The term social responsibility is generally used in connection to private entities, whereas the role of the state and public organisations is often forgotten. Attorneys around the world have realized the impact of increased competitiveness also in the legal areas and are therefore trying to adopt to the new demands of the »market« also via e-commerce.

We can say, that electronic method of doing business is almost an urgency of every organization today, which also applies to advocacy. Advocacy is a special service within judicature, which assures professional representation of people and businesses in procedures before courts of justice and other state bodies, as well as other forms of legal assistance. As opposed to other parts of judicial system, advocacy is independent in its activity to state bodies and is an independent professional activity (Kaučič, Grad 2007). Exactly because of this position, the advocacy must, more as remainder of judiciary system, confront new and changed circumstances in its area. How the process of adapting is taking place in

Slovenia, will be presented via results of research in continuation. The survey focused, above all, on electronic archives, electronic submissions (so-called electronic filing) and electronic communicating as are used at attorneys, in order to show the degree of electronic method of doing business at attorneys.

2. Electronic business and its dimension

Formation of Internet vastly increased possibilities of companies for quicker, more precise, timely and spatially less restricted, more cost-efficient way of doing business adapted to individual customer (Kotler 2004). Internet of today works as source of information, source of fun, as a communication path, path for transactions and even as a marketing path. We can often use it as a sales center, television set, newspaper, library or telephone. Internet also enables sending e-mail, exchange of information and opinions, buying of products and access to news,... (Kotler 2004).

We also connect development of electronic business with development of computer networks and Internet, with agglomeration of information and telecommunication technology and standards for computer exchange of data (Jerman-Blažič 2001). In the case of latter it is more than mere common exchange of computer data and activity of an online store. Today electronic business comprises of: electronic trading, electronic banking, paying electronically, long distance work, electronic publishing, electronic insurance, electronic stock exchange... (Toplišek 1998).

Considering interaction of subjects of electronic business we separate electronic business (Kovačič, Groznik, Ribič 2005):

1. between companies and consumers (B2C),
2. between companies (B2B),
3. between consumers (C2C),
4. between companies and state administration (B2G),
5. between citizens and state administration (C2G) and
6. inside state administration (G2G).

Doing business electronically comprises of three levels, where every level requires higher level of technology and where every level offers results in different field of business. These levels are (Prešern 2006):

- 1st level: inner business processes, without connection to the Internet, since it comprises only of business processes inside the company, but it requires local computer network (LAN). Consequence of this level are faster, cheaper and better execution of business functions as keeping track of materials, general ledger, balance sheets.
- 2nd level: processes with buyers and suppliers, which are not only about management of inner business processes, but also about relations with buyers and suppliers. This form of e-business comprises of the same technology as 1st level and adds e-mail and web pages. Result of this level is quick and safe distribution of documents to and from business partners and better response time to anticipations of consumers.
- 3rd level: e-trading, where we upgrade technology necessary in previous levels with the ability to pay over the Internet.

Considering this definition, we can nowadays say, that all economic subjects have established a certain degree of doing business electronically. Whether individual organization utilizes all possibilities, is also dependent on legal restrictions. In case of attorney's services level three (e-trading) is questionable. In case of second level it may be only for use of e-mail for communication with customers and establishing of a web page.

If we focus our attention on the Electronic Commerce and Electronic Signature in continuation we can see electronic business as business in electronic shape on a distance by using information and communication technologies (ZEPEP, Ur. l. RS, No. 98/2004). Slightly modified definition listed there, is also used in literature (see e.g. Kovačič et al. 2004). Characteristics of electronic business are (1) computer communication, (2) organiza-

tion of business and (3) legal infrastructure to support such business (Makarovič et al. 2001). In electronic business, technically - technological and legally organizational ingredients interweave almost seamlessly. Today the focal point moves from technical toward non-technical (legal and organizational questions) (Toplišek 1998). These questions appear also at the concept of electronic database and at communication via e-mail, we are introducing briefly in continuation.

2.1 Electronic databases

Database is a group of equally formatted data, that we are keeping and using with the help of computer (Gradišar and Resinovič 1999) respectively is a group of connected files, that are organized and stored as a component of organization's computer supported information system (Gradišar and Resinovič 1998). Databases play four important roles in organizations (including law firms): (1) storage of personal data, (2) storage of data needed for business operations, (3) supply of data for management and (4) supply of data from organization's environment. Advantages of electronic archives are said to be (Skeniranje in elektronska obdelava dokumentov in Toplišek 1998):

- minimal costs of archiving,
- minimally need for physical place,
- documents are stored on an electronic medium, that allows quick access,
- containing of exact data without redundancy of data or superfluous doublings,
- adaptability
- enables efficient work,
- unlimited for making safety copies,
- preservation of quality of electronic document, in comparison to paper documents inertness to impacts of environment (water, fire, moisture, light),
- controlled access to archive documents on different levels of rights and assurance of safety.

2.2 E-communication with customers

Electronic mail is one of the most contemporary electronic manners of communication. It is asserting itself also as a medium for legally relevant messages. Statement of will is a rather well defined field in theory and judicial practice, however all key opinions are based on communicating on paper (letter). Author/sender and receiver both have paper message. These persons can do whatever they want with the paper, finally they can even destroy it. E-mail in majority of instances is located on a certain common place (common computer), where all messages are carefully logged and it is technologically possible to make impossible for the participants to breach integrity of stored messages. If communicating goes on directly between two computers, such tracking

is only possible on participating computers. From environment that uses e-mail as part of own business it is dependent whether it will make use of technological possibilities for reliable storage of messages in a time period, relevant for said environment (Toplišek 1997).

Today electronic business and with it, electronic archives and communication via e-mail are reaching more and more into the field of advocacy. We can say, that the internet changed the way attorneys do business, because regardless of their wishes they are subjected to demands of the market and as such forced to do business with subjects, which press heavily toward electronic business. Among the reasons for this trend we can also find numerous other reasons, especially e-mail communication (Harris 2001):

- simple use,
- particular computer knowledge is not necessary,
- we can send e-mail quickly and without additional costs of (physical) delivery,
- we can send e-mail to multiple addresses at the same time,
- e-mail can be sent from outside of the office (e.g. from home),
- e-mail can be printed and adds to archives,
- use of e-mail is conditioned by the manner of business in today's world and ever increasing demands of customers for such communication.

How are attorneys prepared for these facts in Slovenia and how are they utilizing advantages, that doing business electronically offers, in the next chapter.

3. Research on the use of electronic business of attorneys in Slovenia

Toplišek was, in 1996, already studying the distribution of electronic business among attorneys in Slovenia and he found in his research, that only 15 % of attorneys had electronic addresses, while only 24 % of them had a computer with access to internet. Only about 5 % - 11 % of jurists had electronic address, of those most had commercial address (6%). 15 % of jurists were using internal e-mail at work, from those most are in administration and in economy; all other professional fields are falling way behind. Jurists were already at that time aware of possibilities, the e-mail offers them, because 38 % of them thought they would need it, 20 % were already planning to acquire and e-address. Still there was a large share of such, who do not know well enough about the technology, because 27 % of them were not certain, whether they would need electronic mail at all (Toplišek 1997).

Comparatively we can mention an American research from 1998 concerning communication of attorneys via e-mail (Harris 2001), which showed, that at that time, 53.6 % of American attorneys already communicated with their customers via the internet.

To demonstrate the state of use of e-mail among attorneys today and how they make use of other advantages, that contemporary technology brings, was the intention of a research, of which results we are showing in continuation.

3.1 Method of data gathering

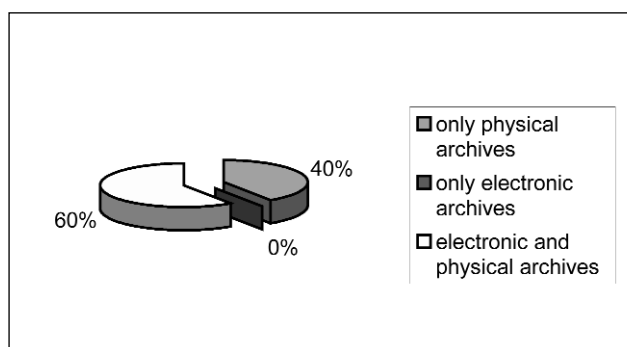
We did a research among Slovene attorneys in the time period from June to July 2007. Namely, we have done the research with the help of e-mail, whereas the basis for us was a register of lawyers of the Bar association of Slovenia, where attorney's e-mail addresses are listed beside basic data about the attorneys. We must forwarn here and now, that some of the listed addresses are not active, as well as that all attorneys in the register do not have an e-mail address listed. Response to the survey was very bad, because only 5,2 % of surveys sent were returned. Despite the bad response, we analyzed the returned questionnaires. We found, that majority of attorneys that returned the questionnaire had offices in business for over 15 years. Interesting is the data, that 44 % of offices are located in cities with over 100.000 inhabitants and 39 % are located in towns between 5.000 and 30.000 inhabitants. We must also stress that, »history« of existence of law firm does not influence in any way on the number of employees they have. So a good 69 % of the offices have only 1-3 workers employed.

The second part of our research was done by analyzing the attorneys web pages of Slovene attorneys. We did the analysis of web pages in period from March to April, 2008. The basis for a more detailed analysis was the database »Attorneys in Internet«, that was prepared by *IUS-Info* in cooperation with *The Bar Association of Slovenia*. The web pages in the database, were provided by the attorneys of law firms, which means, that the base is still deficient. Setting that aside, it is, however, the only reliable database of the sort. We found 66 web pages (3 were unactive) of law firms or individual attorneys. In the database we can find links that are tied to individual attorneys (that is why we can find 125 attorneys (and links) and »only« 66 web pages). We analysed these sites more in detail. Additionally we examined other web pages of Slovene attorneys, found with the search engine *Najdi.si* (namely with search inquiries »attorney«, »law firm« and »attorney's society«). We found a further 39 web pages (or 37,15% of web pages), that we

analysed in a restricted scope (membership, market advantages, publicistic activity).

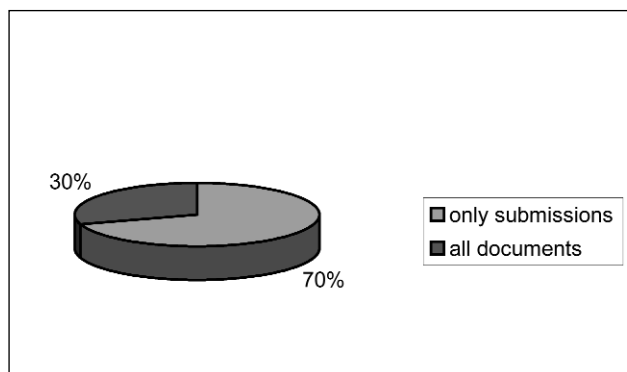
4. Electronic archives and attorneys in Slovenia

First we asked interviewees about archives, its shape and reasons for it. As we can see in Picture 1, majority, good 60 % of law firms, are using electronic and physical archives at the same time, while others are only using physical archives. Between those, that also use electronic archives, 54 % of them are those that are using such method of archiving for old cases. We must also warn, that it is not fully evident whether the »use for old cases« does not perhaps only pertain to transfer of old files into electronic archives (and not the transfer all documentation into electronic form).



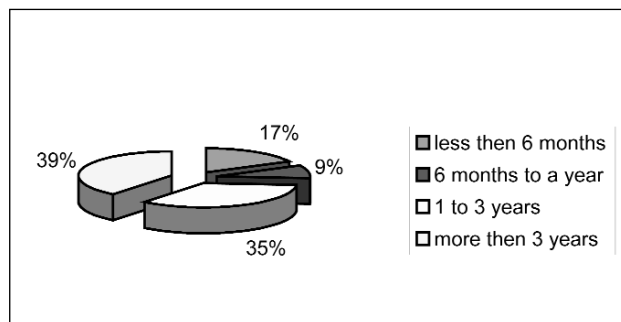
Picture 1: *Forms of archive among law firms in Slovenia*

Use of electronic archive is restricted regarding its scope, because courts of justice do not do business electronically. From this point of view it is understandable that, 70 % of offices using the electronic archive, have only file submissions in them. It is logical namely, that other documents (court rulings...), they get in paper shape, may not be discarded of, because doing that they would dispose of only documents, valid as originals. It would be interesting to look more precisely into the manner how the law firms, that answered they have all the material in the form of electronic archive, are dealing with this system.



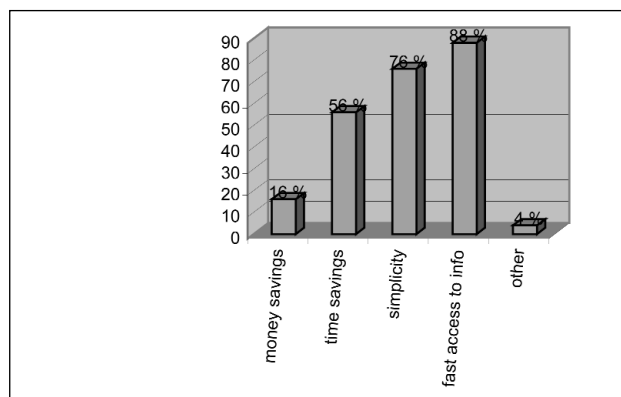
Picture 2: *Documents in electronic archives*

Among the users of electronic archives 39 % of interviewed law firms are such that use it already for more than three years, which is seen in the Picture 3.



Picture 3: *Period of use of electronic archives in law firms in Slovenia*

Considering, that electronic archive is bringing numerous advantages to its users, we were trying to ascertain also the reasons behind its introduction. 88 % of the law firms listed speed of access to data as the main reason. As can be seen in Picture 4, other important reasons listed are also simplicity and transparency of keeping the records, savings of time and savings of money.

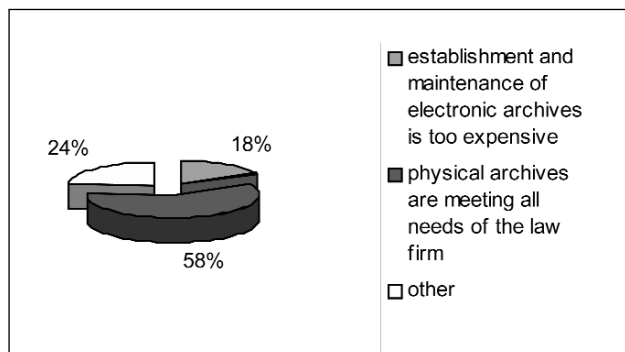


Picture 4: *Reason of use of electronic archive by law firms in Slovenia*

Picture 3 also leads us to infer about inconsistency of answers, because saving of time as an advantage of the electronic archives is listed by »only« 56 % of attorneys. We think namely, that advantages of quick access to data and saving time doing it, have a strong mutual connection, because quicker access to data saves also time. Presented results are not showing this.

Here we must also say, that the most widespread programme is Shakespeare, because 16 % of law firms are using it. Regarding this, we must of course emphasize, that many interviewees are using Microsoft Office, respectively MS Word for administration of their archive. Some law firms are using custom designed programmes, or programmes, which are a result of their own knowledge. Law Office is also in use by 10 % of law firms.

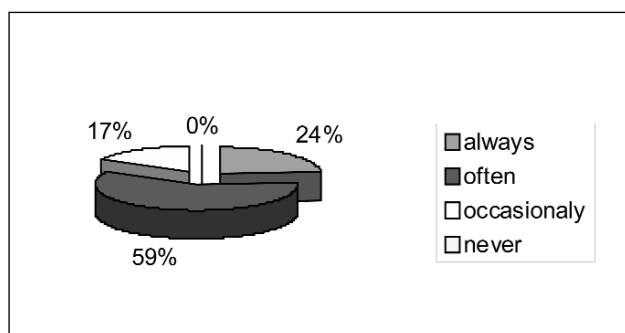
Considering the fact that just 40 % of law firms do not have electronic archives, the question concerning reasons for not having them showed some importantly. The prevailing reasons as showed are; that the establishment and maintenance of electronic archives is too expensive (58.8 % of law firms); that physical archives are meeting all needs of the law firm (17.7 % of law firms) or that the programmes unknown to them.



Picture 5: Reasons for non use of electronic archives

5. Use of E – mails and web pages among attorneys in Slovenia

We determined in the theory already, that second level of electronic business comprises e-mail and web pages. That's why we checked in research also, the use of both by attorneys in Slovenia and in what extent. We found, that in Slovenia the situation concerning the use of e-mail, considering the year 1996 improved considerably. The analysis of answers showed, that with the help of e-mail communicate with their clients 59 % of law firms often, and 24 % always, while other only occasionally.



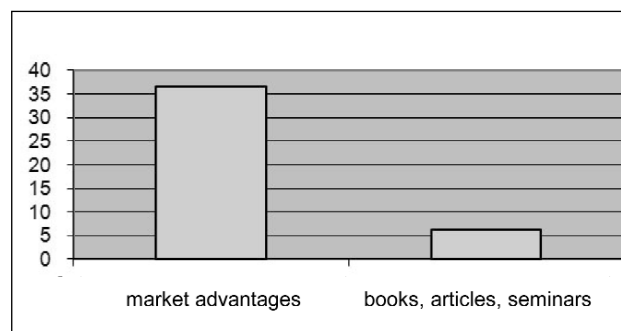
Picture 6: The use of e-mail for communication with clients

Concerning web pages of law firms we must first emphasize, that the admissibility/permissibility of attorneys web presentation in Slovenia was a long time subject of numerous debates, also because of connection with problems of advertisement of attorney's services. Individual problems in this field are repeating everywhere (in our country and elsewhere).

21st paragraph of the Attorneys Act is dealing with this subject. In this regard it is laying down the principle that attorneys may not advertise their activity. More precise is the Code of professional conduct, that states in the 23rd paragraph that defines what may not be looked upon as advertisement; if an attorney has on his web page data concerning his office (working hours, address, field of activity, specialization and similar), if these data are true and they refer to his activity.

However it is necessary also to consider the first part of the listed paragraph, since it limits the scope of allowed advertisement of attorneys. We would like to emphasize the following restraints: "Forbidden is the advertisement of attorney's activity, especially the praise of one's own quality, listing of successful defences, of won legal and other matters, cooperation in known cases, listing of clients and their importance, difficulties cases and similar, ..., references on their former activity, functions or position, ... references on influential unions and acquaintances, giving untrue or deceptive informations concerning their work, references on cooperation with important foreign attorneys and attorney's societies,...", because in practice we come across web pages, that break the listed rules.

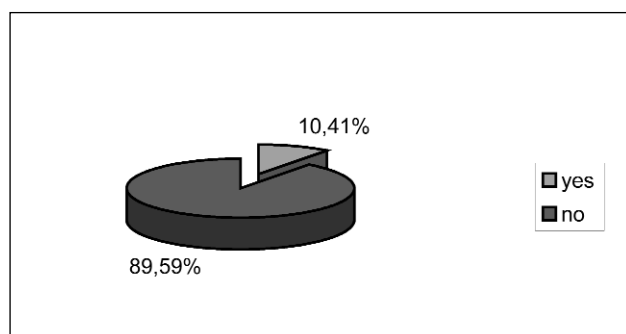
Above all, the web pages of attorneys appeal to certain "market advantages" (type of parties (bank, insurance companies,...), connections with other specialists (other attorneys, specialists on other fields,..., former professional experience ipd.); we also found a few web pages, that reference to publicistic and other professional activities of attorneys (of book, articles, seminars...).



Picture 7: Percent of mentioning of market advantages and of publicistic activity

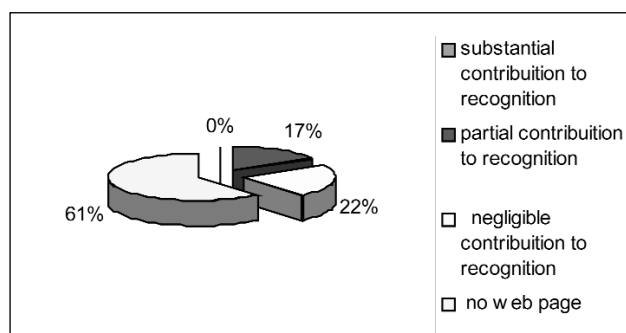
If we look at the base Attorneys on Internet approximately 10% attorneys have web pages (analysis showed, that majority of web pages belong to attorney's societies and not to individual attorneys). As mentioned before, there are 66 web pages listed in the base, while we found through the search engine *Najdi.si* further 39 web pages, that together consist 105 web pages of Slovene attorneys, which means, that common percent of attor-

neys with web pages would increase if they would all be taken into account.



Picture 8: Attorneys with web pages(as result of data-base analysis)

According to attorneys the web page does not contribute essentially to the recognition of the law firm, which is visible also on picture 9.



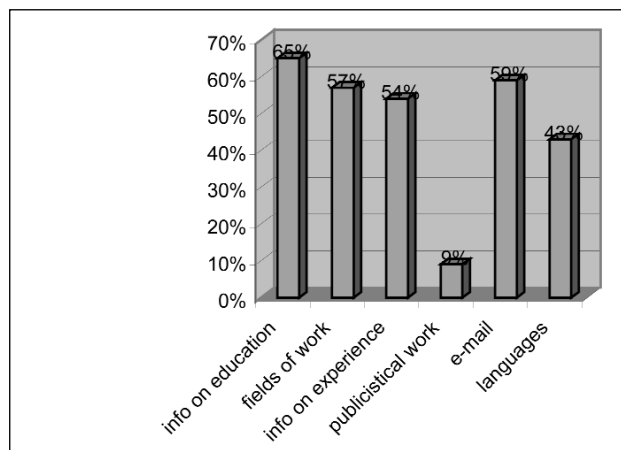
Picture 9: Recognition of law firms as a result of of web pages

The above opinion of attorneys is not astonishing, since the possibilities of choosing or finding an attorney are numerous: a) recommendation, b) trough the bar assoviation or of other proffesional organizations, c) trough the yellow pages or own enquiry, d) trough insurance companies, and e) trough Internet. A german research showed half chooses attorneys considering recommendations of friends and acquaintances.. This fact explains why relatively large percent of attorneys web pages are not listed in the base , since there is no predominant interest to do so, since the attorneys from setting up and of maintenance of web page hope for also of a certain positive benefit for themselves .

Most frequent data, that appear on web pages are :

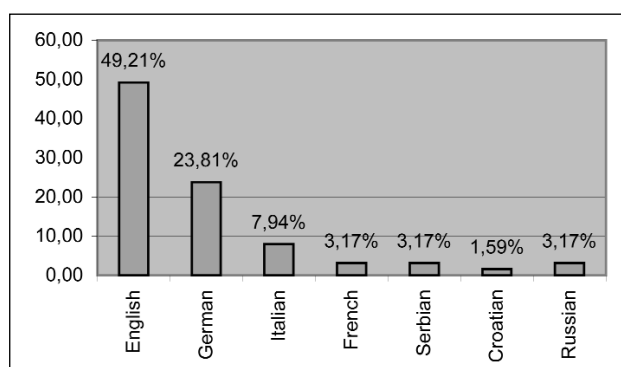
- 1) general short presentation of office - 82,5%,
- 2) telephone number - 100 %, number of the fax - 98 %, e-mail adress - 98 %, address - 100 % and map - 80,6%, indication of official hours - 76,12%, indication of languages in which they do business - 46 %
- 3) The field in which law firms engage in - 95,2% (and their specification - 68,2%),

- 4) Membership in proffesional organizations and associations (except for the Bar Association)- 19 %, (majority of attorneys of course lists membership in the Bar Association of Slovenia),
- 5) Attorneys and their presentation - 95,2% (in picture 5 a more detailed presentation of the information on attorneys is given).



Picture 10: Incidence of some informations concerning individual attorneys

- 6) connection to other web pages - 58,7%
- 7) Web pages in foreign languages (English - 49 %, German - 24 %, Italian - 8 %, other languages appear in restricted number are : French, Russian Serbian, Croatian and Spanish)



Picture 11: Web pages available also in foreign languages(according to database)

We also indicate following good practices.:

- 1) electronic forms for first legal advice or electronic forms for ordering an appointment at attorneys office,
- 2) pre-prepared samples of certain statements (for example statement concerning car crashes), that they are available on the web pages and clients fill them in in advance, .
- 3) description of the procedure at attorneys or indication of documents and proofs, that the clients must or should submit,

- 4) a more detailed specification of fields in which attorneys engage in (can be a big help to uneducated clients),
- 5) some applications "E-attorney" are available to clients on their web pages ,
- 6) interactive maps (some law firms are extraordinarily innovative in indicating their location to their (potential) clients).

6. E-service in the judiciary today and future prospects

The present researches showed, that the use of electronic archives in Slovenia and of web pages, in spite of all technical possibilities, is still not as expanded as initially expected. No law firm is using only electronic archives, which is understandable, since only electronic archives are not enough, since the courts do not do business electronically. On the other hand, attorneys use more and more e-mail communication

We should emphasise that the modernization of judicial system is a part of the project The modernisation of the judiciary system. Between its goals we can find the following:

- 1) The rise of efficiency of the judicial system,
- 2) The modernization of information structure and services,
- 3) Introduction of e-judiciary and others e-services in the field of administration of justice,
- 4) The implementation of electronic business of the judiciary and
- 5) The rise of productivity of the employees.

The modernization of the judiciary of course did not start with this project. Individual processes occurred before the project, and some of them were quite successful. Among them we should mention, for instance E-land registry, that has approximately million hits a year. Judicial delays were with it reduced rather successfully (Modic 2007). The data shows, that today 91 % of attorneys uses E-land registry. Some other e-services were also emphasised beside the above mentioned: E-register of companies, Ajpes...

In research we separately emphasised the project E-execution ("money claim on line"), where we speak only of execution based on a reliable charter. In spite of all the advantages, the project only launched in January of this year (with a six months delay). The research showed, that 97,6 % of interviewed attorneys intend to use the service. 95 % of all asked law firms also support further introduction of new e-service in the judiciary. Among

the options the most supported are the E-land proposal (85,7 % of asked) and E-civil procedure (59,5 % of asked). Attorneys also support other shapes of e-business; for instance e-submissions to the courts, possibility of e-registration of a company, possibility of notifying the parties in a court procedure concerning hearings and the electronic procurement of various confirmations.

7. A few proposals (en lieu of a conclusion)

The authors wished to show above all what the present state is ("sein"), their intention was not to give proposals on how it should be ("sollen"). However during the research of the present some possible proposals appeared:

- 1) The preparation of a strategy of introduction of electronic business of attorneys, that would serve as a guideline to attorneys in introduction of e-business.
- 2) The Bar Association should make clear coherent rules concerning web pages of attorneys, that should be based upon the de facto situation on one hand, and on what is moral on the other..
- 3) The Bar Association should purchase a programme for electronic business of law firms (cheaper acquittement, compatability)
- 4) Deliberation concerning setting up a model web page, that would enable all attorneys a uniform presentation in accordance with rules.
- 5) The attorneys should communicate the web address of their law offices to the Bar Association or IUS-info to allow a formation of a completer base, which could be used by their potential clients by providing them a more complete information.

During our research it became clear that the area of e-commerce of attorneys is a complex one. But attorneys now have a unique opportunity to respond to the changes in their environment even ex ante. What else could be a better demonstration of their responsibility toward their environment and stakeholdersØ

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