

# Information Technology and Legislation Reform

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Integration trends in the developed world, particularly in Europe, not only cause a need for adjusting the current legislation of a country to the newly created social changes, but also place law experts before a test of readiness, capability and skillfulness for scholarly discussions and objective analysis in connection with questions of organizational reform and the operation of a state and its structures.

The support of the general democratic reform orientation of the legal system at the same time means efficient pointing out certain key issues in connection with the general legislative reform. Besides eliminating previous "political preconditions" (e.g. general strategy of political, economic and social development) it is also necessary to approach the preparation and the realization of the legislative system reform on contemporary functional and organizational basis.

In this context there are two main issues related to legislative reform: one is of a conceptual character and is related to the so called legislative function of the state, while the other is of an operative character and concerns outlining and carrying out the legislation reform which would be a "function" of stabilization and development of a market economic system, multiparty democratic pluralism and implementation and protection of human rights. For a number of continental European countries, as well as for this one, the characteristic traditional approach towards questions of legislation reform is one from a so-called normative point of view ("that what should be"). Due to this, in our country many questions of legislative practice are frequently discussed within the general law theory, and not within the real social environment. In conditions of a highly developed technological civilization many science disciplines, particularly related ones intersect,

thus realizing their methodological and conceptual "convergence". As legal disciplines and legislative techniques are also not immune to these processes, in present conditions it is necessary to define this field conceptually and operatively by utilizing information technology. Experiences and results of developed countries undoubtedly show that a contemporary legislative system cannot be considered as a model conceived on the basis of an instrument of power, nor can a contemporary legislative system be projected as a model of authoritative structures and procedures. At the same time, the experience of post-socialist countries faced with development difficulties also undoubtedly point out that these authoritative models have exhausted their organizational, functional, technical and financial capabilities, which practically makes them obsolete to contemporary needs. It is not necessary to particularly prove that technology and information technology also powerfully penetrate legal systems and essentially influence structural transformations and legislative reforms.

Gathering, processing and using data have always played a significant role in managing social processes. In contemporary conditions one might say that data and information processing is the basic function of a contemporary state, and that the information activity of the legislative, court, administrative and other state subsystems is an important assumption for a legal, efficient and economic accomplishment of the role of the state and its legislation. Information technology can be used in practically all fields of legislative activities: from projecting the interior organizational structure of the state organization, to running information, documentation and management systems on a national and local level (telecommunications, traffic, public utilities, etc). This results from the fact that a large part of legal

activity, particularly legislative work is of a routine and repetitive nature which allows their standardization and automatization in gathering and processing data for passing and realizing certain decisions and conducting a certain process, as well in the field of computer text-processing and general legislative activity.

As pointed out several years ago, information technology represent a valuable "ally" in performing a variety of jobs and activities when determining the contents and passing laws and other general legal acts, primarily in gathering, selecting and placing at disposal various work materials, statistical and other data. (1) Besides that, the application of information technology in the legislative process enables the efficient study of existing law relations based on relevant materials produced in the form of different sociological, expert and other researches in view of assessing the social justification of approaching normative regulating of certain social areas (e.g. social programs, demographic movements etc).<sup>(1)</sup>

In an operative sense, law regulative activities start with planning, preparation and passing laws by the parliament, and are being realized by the application of the law by administrative organs and courts, the citizens and other legal subjects. Introducing information technology in the legislative function, is certainly a way for the legislative organ to overcome the slow pace and "congestion" which originates due to frequently long and complex legislative procedure.<sup>(2)</sup>

The application of information technology in the legislature contributes to prompt and complete disposition of the legislative body with all the necessary and relevant information, in that way opening a perspective of strengthening its position that is anticipated by the constitutions of certain countries. With the aim of overcoming such a situation, twenty years ago certain developed countries (e.g. the US) have commenced building "legislative law information systems".<sup>(3)</sup> As it was pointed out: "One of the most important law questions is certainly the legislative procedure. Nevertheless, a large majority of new legislators propose and act without possessing adequate information. This is happening not due to negligence, but due to the inaccessibility of necessary information. Beside that, the majority of legislators possess very complicated methods of producing drafts and proposing laws. We are (...) part of a work group which is examining possibilities of creating a legislative information system (legislative cross-

referencing system) for the need of the federal government, and its involvement in the existing, in other words future information systems."<sup>(4)</sup>

Methodological approaches orientated towards a the general system's theory and other complex research methods of law in regard to its environment (e.g. system analysis, mathematical models, etc.) enable an efficient procedure of "social regulation",<sup>(5)</sup> in other words the planning and prediction of normative regulation *ex ante*, and not like previously where the case was often *ex post*, in other legislative intervention after the realistic social process was set in motion.

Informatization of the legislative process, has a very important role, with regards to "filtering" the legal order from duplicating, discordance and contradiction with the multiplication of the number of laws and general acts, as well as eliminating various terminological impreciseness and unclearness (e.g. in certain regulation citizens, for exercising their rights, are encouraged to file "requests" and in others to file an "appeal" etc.)

From the technical aspect, the application of information technology in the field of legislation opens wide possibilities for legislative techniques advance training and the legislation systematization, as well as for a comparative analysis and study of norms from narrower legal areas (for example criminal, administrative and civil procedural norms). From the aspect of achieving freedom and rights of citizens, information of the legislative activity is of essential importance, when taking into consideration the proposals, opinions, suggestions and comments of the citizens, their associations and other organizations expressed in public discussions and hearings, as generally in efficient monitoring of public opinion in the process of proposing and passing certain laws.

Finally, information technology and computerized legal information systems in the field of legislation assist during modification, addition, alteration, up-dating and prompt publishing of legal texts and other regulations, as well as quick searching and comparing with other rules and regulations.

The final effect of the application of information technology in the field of legislation is manifested in a consistent implementation of the legality principles, legal security, rule of law and the realization of basic human rights and freedoms.

## Notes

(1) Cf.: Ronald A. May, *Automated Law Research - A Collection of Presentations Delivered at The First National Conference on Automated Law Research*, American Bar Association Standing Committee On Law and Technology, Atlanta, 1972.

(2) Cf.: Stevan Lilic, *Legal Informatics - Introduction of The Application of Information Technology in Law*, Beograd, 1991.

(3) Cf.: Beth Kervitt Eres, *Legal and Legislative Information Processing*, Greenwood Press, Westport, CN, 1980.

(4) Cf.: Layman E. Allen, David T. Link, *Legislative Information Systems, "Sense and System In Automated Law Research"* (Editor - Ronald A. May), Section of Science and Technology, American Bar Association, Chicago, IL, 1973.

(5) Cf.: Regarding "social regulation see: Eugen Pusic, *Social Regulation*, Zagreb, 1989; S.Lili}, P.Kuni}, P.Dimitrijevic, M. Markovic, *Administrative Law*, Beograd, 1999, and others.

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