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ISSUES OF USING COURT NOTICES IN ENSURING THE OPENNESS OF CIVIL PROCEEDINGS IN COURTS

Sabirov Erkinjon Kuchkarbaevich
Acting Head of the Department of Civil Law Sciences of the Academy of Justice, Associate Professor, Doctor of Philosophy in Law (PhD)
E-mail: erkinjonsabirov@gmail.com
ORCID ID: 0009-0003-2233-0182



Abstract. *This article examines the theoretical and legal foundations of the principle of openness in civil proceedings, its historical development and its place in contemporary international legal standards. The study analyzes the concept of open justice developed in the Anglo-American legal tradition, the philosophical views of Jeremy Bentham, the significance of the Scott v Scott case, and modern approaches in foreign legal doctrine. Particular attention is paid to European human rights standards, the case law of the European Court of Human Rights, and the impact of digital technologies on judicial transparency. As a result of the research, the main procedural and legal elements of the mechanism for ensuring openness in civil cases are identified.*

Keywords: *court notice, civil procedure, principle of openness, open justice, court hearing, judicial decisions, digital justice, transparency, public oversight, administration of justice, human rights.*

In civil proceedings, the principle of openness of hearings is one of the essential components of the guarantees of justice. However, the practical implementation of this principle directly depends, first of all, on whether the participants in the proceedings are fully, timely and reliably informed about the judicial process. If a person is not duly notified of the time and place of a court hearing, he or she is deprived of the opportunity to defend his or her rights, submit evidence and participate in the adversarial examination of the parties. This, in turn, leads to the loss of practical significance of the principles of openness and adversarial proceedings. Therefore, the sending of court notices should not be assessed merely as a technical-procedural issue, but as a means of implementing constitutional guarantees of justice.

A comparative analysis of the legislative experience of foreign states, international standards and national judicial practice shows that court notices are sent through a combination of traditional methods (paper-based postal delivery, personal service) and modern digital methods (e-mail, SMS notifications, notification through web portals and personal account systems). In this area, the judicial and legal reforms being carried out in the Republic of Uzbekistan, in particular the approval of the Digital Court Concept by the Decree of the President of the Republic of Uzbekistan No. PD-140 of 21 August 2025, require an in-depth scholarly analysis of this issue and the development of proposals for improving national civil procedural legislation on the basis of advanced foreign experience [1].

The theoretical and legal content of the institution of court notices. Chapter 16 of the Civil Procedure Code of the Republic of Uzbekistan (Articles 156-163) is entitled Court Notices and Summonses and establishes the procedural rules for notifying persons participating in a case of the time and place of the court hearing. In particular, Article 156 of the Code defines the concept of court notices and summonses, Article 157 sets out the requirements for the content of a summons,

Articles 158-160 regulate the time limits, delivery and service procedure, Article 161 determines the consequences of refusal to accept a notice, and Article 162 establishes the institution of due notification [2].

As emphasized in legal literature, the essence of the principle of openness in civil proceedings lies in the fact that it allows citizens to become directly acquainted with the activities of judges, to place such activities under public control, and thereby to ensure the correct and timely resolution of civil cases.

According to legal scholar Professor Sh.Sh. Shorakhmetov, the open and public consideration of civil cases creates a significant impression on the participants in the proceedings and other persons present in the courtroom, and ensures the educational role of the judicial process [3].

In turn, D.Yu. Khabibullaev describes the openness of court hearings, on the one hand, as an indicator of the democratic nature of judicial proceedings, and, on the other hand, as a form of public control over compliance with constitutional principles [4].

From this point of view, the use of court notices functions as a gateway to the principle of openness: if a person is not informed about the proceedings, his or her right to participate and, accordingly, the possibility of exercising judicial oversight remain merely declarative. Therefore, the issue of improving the institution of court notices is inseparably connected with enriching the substantive content of the principle of openness.

International standards concerning the use of court notices. In the system of international legal guarantees of the right to justice, the issue of due notification of the parties occupies a central place. Article 10 of the Universal Declaration of Human Rights and Article 14 of the International Covenant on Civil and Political Rights guarantee the right of every person to a fair and public hearing of his or her case [5]. This necessarily presupposes that the party is informed about the proceedings.

The guide developed in the case law of the European Court of Human Rights concerning the right to a fair trial enshrined in Article 6 of the European Convention on Human Rights emphasizes that the right to justice, including on the basis of the adversarial principle, requires that the parties have the opportunity to become acquainted with all documents and evidence in the case and to comment on them. This right can be realized in practice only through due notification of the party. This principle is expressed in Article 6(1) of the Convention as the right of everyone to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law [6].

The Guidelines on electronic court filing (e-filing) and digitalisation of courts, adopted on 9 December 2021 by the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe, distinguish two components of electronic communication: first, the submission of documents to the court in electronic form by the parties, representatives and other persons; second, the delivery of procedural documents by the court to the parties through electronic channels and the sending of notices [7].

Among the principles developed in the Guidelines are legality, transparency, reliability, data protection and user-centricity. These criteria constitute general directions that states should observe when digitalizing court notices.

The CEPEJ Action Plan on the Digitalisation of Justice, adopted on 8-9

December 2021, also identifies ensuring the transparency of judicial activity and introducing user-friendly and interoperable digital communication tools as priority areas. It is specifically emphasized that digitalization should not replace the central role of the judge in the process, but should support it [8].

Turning to the experience of common law jurisdictions in the use of court notices, for example the United States, Rule 5 of the Federal Rules of Civil Procedure regulates in detail the methods of serving procedural documents on the parties [9].

According to this rule, a document may be served on a registered user through the court's electronic-filing system, or may be sent by another electronic means to which the party has consented in writing. In such a case, service is completed upon filing or sending. However, if the sender learns that the notice did not reach the recipient, this circumstance defeats the presumption of service.

According to amendments to Rule 5 of the Massachusetts Rules of Civil Procedure, service by e-mail has been recognized as a permissible method even without a written agreement of the parties. This practice was introduced by a court order during the COVID-19 pandemic and was later consolidated as a permanent rule. In this context, the granting of an additional three-day period for a response to the party served by e-mail, pursuant to Rule 6(d), has important practical significance. This is aimed at compensating for the technical risks inherent in electronic notice, for example the possibility that a message may fall into a spam folder [10].

The analysis of the experience of civil law jurisdictions shows, for example, that Section 173 of the German Code of Civil Procedure (Zivilprozessordnung, ZPO) regulates the service of electronic documents. For lawyers, notaries and other professional participants belonging to the category of reliable recipients (zuverlässige EmPDänger), electronic service through a secure transmission channel (sicherer Übermittlungsweg) has been introduced as a mandatory procedure. Pursuant to Section 175(4) of the ZPO, the acknowledgement of receipt (EmPfangsbekenntnis) must be sent to the court in written form, by facsimile or as an electronic document under Section 130a [11].

A distinctive feature of German legislation is that it preserves the voluntary element (voluntatives Element) of service, meaning that an electronic acknowledgement has legal effect only when the recipient sends it with the intention of recognizing the document as served. This constitutes an important legal instrument aimed at guaranteeing the validity of service.

Through the ERV-Ausbaugesetz, which entered into force on 1 January 2022, Sections 173-176 of the ZPO were substantially revised, and the procedure for serving electronic documents was established not as an exception but as a general rule. For non-reliable recipients, a system of automatic acknowledgement of receipt (automatische EmPDangsbestätigung) was introduced. However, the three-day fiction (3-Tages-Fiktion) is not applied in this context. This practice serves to ensure a balance between legal certainty of service and the actual awareness of the addressee [12].

With regard to the experience of the civil procedural legislation of the CIS states, Article 113 of the Civil Procedure Code of the Russian Federation provides that persons participating in a case, witnesses, experts, specialists and interpreters may be notified by registered

letter, a court summons with acknowledgement of service, telephone message or telegram, facsimile communication, or other means of communication and delivery that make it possible to record the notice and its service on the addressee [13].

Within the framework of the State Automated System Justice (GAS Pravosudie) operating in the Russian judicial system, electronic notices may be sent through the personal account of the Unified Portal of State Services (EPGU), provided that the party has consented to being notified in this manner.

In the research of Russian legal scholar I.N. Bartosh, it is noted that although SMS notifications were introduced into civil proceedings as the historically first form of electronic notices, they have still not been directly established in the Civil Procedure Code of the Russian Federation. The procedure for this issue is determined by resolutions of the Plenum of the Supreme Court of the Russian Federation and orders of the Judicial Department under the Supreme Court. In order to prevent abuse of procedural rights in judicial practice, the author recommends giving priority to electronic notices through the State Services portal while duplicating them by traditional means [14]. The sources summarized by the author also note that, since 2016, parties exercising separate state or other public powers, such as state authorities and local self-government bodies, have been obliged to independently monitor the status of a case through the official court website, while the possibility of notification by e-mail was introduced in 2017.

In the Republic of Kazakhstan, the information and analytical system Torelik of the judicial authorities includes a mechanism for notifying participants in proceedings by SMS messages and e-mail [15]. Through the electronic service Court Cabinet (Sot kabineti), the parties are able to monitor the progress of the case remotely and submit documents in electronic form.

The experience of China in applying court notices aimed at ensuring the openness of civil proceedings is also noteworthy. In the People's Republic of China, within the framework of the Smart Court (智慧法院) concept, there is a system for automatically sending procedural documents by e-mail or short message (SMS). According to the Online Litigation Rules of the People's Courts, which entered into force on 1 August 2021, the party's clear and informed consent to the use of online methods is required. In addition, the party has the right to withdraw such consent at any time. This serves to ensure personal autonomy in the digital justice system [16].

Turning to the practical situation and statistical indicators concerning the digitalization of court notices in the Republic of Uzbekistan, within the framework of the Program for the introduction of modern information and communication technologies into the activities of courts for 2017-2020, approved by Resolution of the President of the Republic of Uzbekistan No. PD-3250 of 30 August 2017, an electronic database on a centralized management platform has been functioning in economic courts since 1 January 2018 in order to ensure electronic document exchange, judicial statistics and effective use of procedural time limits [17]. Today, through the interactive service portals Sud.uz and My.sud.uz, citizens are able to receive court notices and summonses online, remotely monitor the status and progress of a court case,

and participate in court hearings through a videoconferencing system.

The Digital Court Concept approved by Decree of the President of the Republic of Uzbekistan No. PD-140 of 21 August 2025 is aimed at fundamentally reforming the national judicial system. Among its structural directions, special importance is attached to the complete digitalization of filing applications and document circulation, ensuring the remote participation of trial participants, and automating judicial processes. According to the Concept, special courtrooms are planned to be established on an experimental basis in Tashkent by the end of 2025, and the system is expected to be introduced gradually throughout the republic in 2026-2027 [18].

At the same time, in the field of compulsory enforcement, the practice has been introduced of sending notices on the initiation of enforcement proceedings on the basis of an enforcement document by e-mail or mobile communication in the form of a short message (SMS) through an automated system. Special software is used to record the facts that a notice has been sent and received. However, in practice, the legal significance of sending court notices in electronic form, namely the criteria for recognizing an electronic notice as duly served, is not fully regulated in Articles 156-162 of the Civil Procedure Code. In particular, current legislation does not establish a clear legal presumption of receipt for notices sent by e-mail or SMS, nor does it define the procedure for obtaining the party's consent to this method. This creates risks in practice that the hearing may be delayed because the court notice was not delivered, or, conversely, that a case may be resolved without duly notifying the party.

The analysis of judicial practice concerning the application of court notices shows that, according to statistical data related to the review of judicial acts on newly discovered circumstances by the Plenum of the Supreme Court of the Republic of Uzbekistan, the number of applications for review of judicial acts by administrative courts demonstrates a steady upward trend. In particular, 396 applications were recorded in 2021, 499 in 2022, 526 in 2023 and 573 in 2024. The consistent increase in these indicators may indicate, among other reasons, the growing number of disputes connected with a party not being timely informed about important circumstances of the case, including notice of the court hearing. In this regard, the approach developed in the judicial practice of the Russian Federation on the issue of due notification is noteworthy. According to collections of judicial practice, notification by SMS has been recognized as corresponding to the first part of Article 113 of the Russian Civil Procedure Code. In this case, the party's separate consent to being notified by this method must be obtained by means of a receipt indicating the mobile telephone number, and the fact that the SMS notification was sent and delivered to the addressee must be recorded. In addition, practice emphasizes that SMS notifications are mainly used for repeated notification, and that the notice of the first court hearing may not be sent only by SMS. This reflects an approach requiring a higher level of reliability for the first notification.

According to scholars who have studied Chinese judicial practice, including Bin Liang, Tao Xu and others, in the Smart Court system, one of the important tools for ensuring procedural transparency is the provision of information on case status through online

platforms. At the same time, the authors note the problem that procedural legislation lags behind digital judicial practice, in particular the absence of clear legal grounds for certain aspects of online litigation rules. This conclusion is also relevant for Uzbekistan, because technical solutions being introduced in practice, such as the system for sending notices by SMS, still await the appropriate legal regulation that should be reflected in procedural legislation.

On the basis of the above analysis of foreign experience, international standards and national practice, the following conclusions and proposals may be put forward:

1. It is advisable to introduce into Article 156 of the Civil Procedure Code of the Republic of Uzbekistan a separate definition of electronic court notice and to provide that it has equal legal status with paper-based notices under the Code. In this regard, similar to the category of reliable recipients in Section 173 of the German ZPO, a mandatory channel for receiving electronic notices should be introduced for lawyers, legal entities and state bodies;

2. In accordance with the approach of the United States Federal Rules of Civil Procedure, it is necessary to introduce a legal presumption of receipt under which an electronic notice is deemed served from the moment it is sent, unless the sender learns that it has not reached the recipient, and to establish a rule placing the burden of proving this circumstance on the sender;

3. Taking into account the experience of Russia and Kazakhstan, the first notice of summons to court should be sent only by a traditional method (postal delivery or personal service) or through an electronic channel for which the party has given prior written consent, while the broad use of SMS and e-mail for repeated notices should be regulated procedurally;

4. In line with the Chinese Smart Court experience, it is necessary to obtain the party's clear and informed consent to the use of electronic notices and online participation, as well as to establish the party's right to withdraw such consent at any time and return to traditional methods. This would guarantee the party's voluntary choice between digital and traditional methods;

5. It is proposed to introduce a rule granting the party served by e-mail or SMS an additional period, for example 2-3 working days, to respond or prepare for the court hearing, as in the experience of the State of Massachusetts in the United States. This would compensate for the risk of late delivery of notices caused by technical failures;

6. In accordance with the CEPEJ e-filing Guidelines, including the principles of user-centricity and data protection, it is necessary to develop draft amendments and additions to Chapter 16 of the Civil Procedure Code, taking into account the need to regulate not only the technical, but also the legal and procedural aspects of the electronic notification system being developed within the framework of the Digital Court Concept.

In conclusion, improving the institution of court notices is an important condition for ensuring the principle of openness of civil cases not merely in form, but in substance. The application of advanced foreign experience, taking into account the specific features of the national legal system, as well as the strengthening of procedural guarantees in accordance with international standards, will contribute to the successful implementation of

the Digital Court Concept in the Republic of Uzbekistan and, through this, to further strengthening citizens' trust in the judiciary.

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