Overview of the Publication of Court Judgements in Estonia

Merit Ulvik

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General Overview

Public Information Act of Estonia requires publication of all court judgements that have entered into force[1]. All judgements are to be inserted into databases that are made available to the public on the internet. Making sure that all judgements are entered into the system, is the obligation of the court that renders the decision and the deadline for entering the data is the next working day after the delivery of the judgement.

Publication of court judgements in an easily searchable and accessible database constitutes part of the strategic goals of the Ministry of Justice which aim at guaranteeing the quality of the state's decisions in legal policy and the comprehensibility and accessibility of these decisions by the general public.[2] Publication of court judgements is only a part of this goal besides other efforts to make legal information possessed by the state more transparent and accessible. Besides court judgements, the public has access to:

- "Participation web" - a website where the public participates in decision-making process through expressing opinions about draft acts and through submitting ideas and suggestions to the government as well as collecting signatures to support citizens' initiatives;

- Decisions of the President regarding promulgation of laws;

- State Gazette – the official publication of all promulgated legislation, explanatory memoranda as well as Supreme Court judgements;

- "E-file" - a website enabling digital submission of documents by the parties to a court proceeding as well as following the steps taken in the proceedings by its parties;

- Database for reviewing the implementation of the assignments given to the Ministers by the Parliament, Government and Prime Minister;

- Translations of laws (into English and Russian);

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1   Public Information Act, Article 28 (1) "A holder of information is required to disclose the following existing information related to its duties:
    [...]
    (29) court judgements entered into force with restrictions arising from law"
2   "Justiitsministeeriumi arengukava kuni aastani 2012", 15.01.2008

A study of the "Legal Awareness of the Public of Estonia"[3], conducted in 2007, showed that most people seek for legal information on the internet. The above mentioned sources of legal information, including court judgements are currently operated through different systems and databases. However, as a reaction to the public's expressed need to find legal information on the internet, the Ministry of Justice has developed a plan for including all source of legal information as well as various internet-based internal working mediums of the government and courts into one consolidated system of legal information[4]. Making legal information available to the public on the internet is considered essential in achieving better legal awareness of the public as well as the transparency of the state's legal policy.

Court judgements are currently published in two separate databases. One of them includes all the judgements (and regulations) delivered by the courts of first and second instance and the other includes judgements delivered by the Supreme Court and the Constitutional Review Chamber.[5] In fact, there are two databases for the judgements of the courts of first and second instance, one containing judgements from 2001-2005 and the other, a more user-friendly and up-to-date system containing judgements from 2006 until present. Supreme Court judgements, on the other hand, are published in two places, in a database on the website of the Court and in the State Gazette that includes all promulgated legislation. The main source of Supreme Court judgements for the practitioners is nevertheless the database on the website of the court due to its easier searchability.

The complexity of the above mentioned databases is a consequence of their evolution. After new and more up-to-date systems were developed, the old ones were not incorporated into the new ones but remained as parallel databases. Thus, currently the databases of court judgements are not easy to find and use by the general public, while on the other hand, they well serve the needs of the practitioners. As the aim, however, is to make all judgements accessible to the general public, the government has decided to pursue a reform and develop the above mentioned consolidated system of legal information.

Additionally, the state is operating two databases of legal information that can be used in exchange for a fee. These databases are Estlex and Digesta. Estlex contains all promulgated legislation, texts of local governments' legal acts, international contracts, translations of legal acts, links to EU legal acts

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3   Ministry of Justice, 2007, available in Estonian at
    http://www.just.ee/orb.aw/class=file/action=preview/id=30815/Eesti+elanike+%F5igusteadlikkuse+uuring.pdf
4   "Liidestatud õigusinfosüsteemi lähteülesanne", 2008, available in Estonian at
    http://www.just.ee/orb.aw/class=file/action=preview/id=36163/Liidestatud+%F5igusinfos%FCsteem_l%E4hte%FClesan
    ne.pdf
5   The Supreme Court of Estonia also serves as the the Constitutional Court which decides upon the constitutionality of
    legislation of general application and international agreements. The chamber of constitutional review is compiled of 9
    judges of the Supreme Court

referred to in Estonian legal acts and *links to related judgements of the Supreme Court*. Digesta contains *summaries and analyses of Supreme Court judgements*, including the reasoning of the judgement, similar cases dealt with by the European Court of Human Rights and the implications of the judgement on the society and effects on later judgements. In addition, Digesta offers summaries and analyses of new legislation and access to legal training materials.

The two fee-charging sources of legal information offer services that go beyond the basic access to legislation and court judgements and are thus used by many people working in the field. However, recently, in connection with the plan to create a consolidated system of legal information, the necessity and further more, the ethics of the state providing parallel to free legal information, the same information in a more structured and user-friendly form for a fee, have been called into question. Thus, the plans of the consolidated system of legal information provide for the termination of these fee-charging services and foresee complementing the free services with their functions6.

What follows is an overview of the practical details of the current databases as well as a limited analysis of their shortcomings and recommendations for improvement.

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6 "Liidestatud õigusinfosüsteem kontseptuaalsed alused", 2007, available in Estonian at
   http://www.just.ee/orb.aw/class=file/action=preview/id=39890/%D5IS_kontseptuaalsed+alused.pdf

Judgements of the Courts of First and Second Instance

The first database of the judgements of the courts of first and second instance was created in 2001 and is called the Database of Court Statistics and Judgements ("KOLA")[7]. "KOLA" contains all judgements of the courts of first and second instance from 01 October 2001 until 01 January 2006. Unfortunately "KOLA" was not incorporated into the new database created in 2006, and thus, one still has to turn to "KOLA" for judgements that came into force before 2006.

In reality "KOLA" is compiled of four different databases for the four types of proceedings (administrative, misdemeanour, civil and criminal matters). Thus, to be able to find a judgement, one needs to know the type of the proceeding. This hinders accessibility of court judgements to the general public whose legal awareness is limited and renders the database a tool for the legal practitioners only, one of the shortcomings that was amended by the new "KIS"[8] database.

The four databases of "KOLA" are searchable according to different parameters. All of the databases can be searched according to:

- number of the court case;

- date of the arrival of the court case to the court (a range can be given);

- date of the court of first instance's judgement (a range can be given);

- date when the court judgement entered into force (a range can be given);

- date of the court of second instance's judgement (a range can be given);

- name of the court;

- name or code of the judge;

- keyword (an indication of whether the keyword should be present in the judgement of the court of first instance or the court of second instance has to be made)

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7 Kohtustatistika ja kohtulahendite andmekogu, referred to as "KOLA"
8 See footnote 10

In addition to the ones mentioned above, the four databases are searchable according to additional parameters depending on the type of the matter. In case of *administrative matters*, the additional parameters include "name of the plaintiff", "type of matter" (a choice between civil service, education and culture, service in the armed forces, citizenship and migration, economy, tax matters, ownership reform, social rights and other is provided) and "respondent institution" (a selection is offered).

In case of *misdemeanours*, the list is similar, except that "name of the plaintiff" is replaced with the "name of the person subject to proceedings" and the selection under the "type of matter" is replaced with misdemeanour by a natural person, misdemeanour by a body corporate, appeal to a judgement in the matter of a misdemeanour by a natural person and appeal to a judgement in the matter of a misdemeanour by a body corporate.

For searching *civil cases* the main difference is that judgements can be additionally searched according to "name of the person involved" which offers the selection of "plaintiff", "respondent" and "3rd person". In addition, the selection under the "type of matter" includes general matters of civil law, law of obligations, property law, family law, law of succession, labour law, commercial law, bankruptcy matters, acts related to securing action and enforcing judgements, dwelling matters and other civil matters.

Finally, in *criminal matters* the "type of matter" is replaced with the article of the Criminal Code or Penal Code[9].

As mentioned above, searching court judgements in "KOLA" requires some legal knowledge and a clear understanding of the type of judgement one is looking for. Another shortcoming that was partly resolved by the "KIS"database, is the difficulty of finding appeals to a certain judgement. "KOLA" judgements carry different numbers for court of first and second instance's decisions. Thus, finding an appeal to a judgement or a lower court judgement that was appealed, requires a separate search with the help of one or more of the parameters mentioned above. It is therefore recommendable that for the sake of better searchability, the different judgements in the same case, be identified with the same number.

01 January 2006 "KOLA" was replaced with the Courts Information System("KIS)[10] which currently serves as the main database of publicly available first and second instance court judgements delivered in the last four and a half years.

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9 The Penal Code replaced the Criminal Code that was in force until 2002
10 Kohtuinfosüsteem, referred to as "KIS"

"KIS" is regulated by the Courts Act[11] as well as the Statute of the Courts Information System[12]. Article 34 of the Courts Act defines the Courts Information System as a:

> "[...] state agency database founded by the Minister of Justice the purpose of which is the organisation of the work of courts, the collection of statistics, the collection and systematisation of court decisions and making these available to courts and the public."

Thus, "KIS" does not only serve the aim of providing access to court judgements but plays a more general role in facilitating the work of the courts. The Statutes of the Courts Information System specify that the goals of "KIS" are to:

> 1) gather court cases into a common database;
>
> 2) handle data related to procedural acts;
>
> 3) handle electronic procedural documents;
>
> 4) enable the automatic use of data related to a court case in compiling procedural documents and statistical reports;
>
> 5) guarantee a continuous overview of the court proceedings;
>
> 6) enable compilation of reports regarding the workload of the courts, analysis of judgements and statistical information;
>
> 7) enable analysis and systematization of court judgements with the help of keywords, annotations and search system;
>
> 8) enable the submission and preservation of electronic procedural documents;
>
> 9) *to make court judgements accessible to the public on the internet.*[13]

The Courts Act stipulates that the responsibility of managing the database falls to the Ministry of Justice[14]. However, it is the task of each court to enter the information into the system.

"KIS" is a more user-friendly database for searching court judgements than "KOLA". First of all, there is no need to know the type of court proceedings as in case of "KOLA". Thus, one can search from among all types of proceedings, or in case the searcher is nevertheless aware of the type, he/she can limit the search to that particular type. Search parameters are the same for all types of proceedings are the following:

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11 (RT I 2002, 64, 390), came into force 29.07.2002, available in English at
http://www.legaltext.ee/et/andmebaas/tekst.asp?loc=text&dok=X30065K4&keel=en&pg=1&ptyyp=RT&tyyp=X&query=Kohtute+seadus
12 (RTL 2006, 18, 317), came into force 26.02.2006
13 Statutes of the Courts Information System, Article 2
14 Courts Act, Article 34(2)

- number of the court case;

- name of the court;

- date of the court judgement (a range can be given);

- date of the proceedings (a range can be given);

- type of the judgement (a choice between all types, decision and regulation);

- Content of the judgement (text can be inserted).

Unlike in "KOLA", "KIS" database gives the same number to all the judgements delivered in one case. Thus, the judgement of the court of first instance carries the same number as the judgement of the court of second instance in the same case. This facilitates the search of all judgements rendered in one case.

In case the person is aware of the type of the proceeding (criminal, civil, administrative, misdemeanour), a more detailed search can be carried out. The detailed search form offers an opportunity to do a more comprehensive search and thus limit the court judgements to very specific ones of interest to the person. The detailed forms vary according to the type of court proceedings and include additionally the following searchable parameters:

Criminal proceedings

- Name of the law - selection between Criminal Code and Penal Code;

- Article of the law;

- Form of the matter – a long selection is offered that includes among others such options as expedited procedure, settlement proceedings, alternative proceedings, summary proceedings, application of sanctions against minors, administration of coercive psychiatric treatment, request for international cooperation, request for state legal aid, etc.;

- Request submitted by - selection between prosecutor, custodial institution, probation supervisor, bailiff, special school, other;

- Type of the request – a long selection is offered that includes among others such options as

choice of, change of and annulment of preventive measures, termination of criminal proceedings, application of confiscation, search, compulsory admittance to a medical institution, extension of probation, etc.;

- Judgement – selection is offered between convicted, acquitted, termination of criminal proceedings, sent back to the prosecutor's office, sent for a new hearing, termination of criminal proceedings in event of lack of public interest;

- Type of punishment - selection is provided.

Civil proceedings

- Category of the matter – a long selection is offered that makes a difference between proceedings on petition and actions and includes among others such options as payment order, general part of the Civil Code Act, family law, adoption, property law, international legal aid, bankruptcy matters, succession matters, joint property, various types of contracts under law of obligations, non-contractual obligations, labour law matters, intellectual property, etc.;

- Type of the matter – a very long selection that includes e.g. expedited procedure of payment order, procedure of exequatur, establishment of custody over property of absent person, land register matters, application of estate management measures, divorce, securities, appointment of a guardian for a person with restricted active legal capacity and other matters regulated by the Code of Civil Procedure;

- Type of the hearing – selection between adjudication in a court session, adjudication by written proceeding by agreement of the parties, adjudication by written proceeding imposed by the court, summary proceedings, documentary proceedings and other;

- Judgement – a selection between such options as to be satisfied, to be satisfied in part, to be terminated, refusal to accept petition and returned, refusal to hear the action, to be referred for new hearing, to be transferred to actions, to be dismissed, etc.;

- Grounds for termination of proceedings – selection between compromise, plaintiff discontinued the action, failure to comply with mandatory procedure established by law for prior extra-judicial adjudication, existence of judgement in the same matter, lack of legal succession; other.

Administrative proceedings

- Category of the matter – selection includes service relationship, education and culture, population, refugees, tax law, consumer protection, state aid and competition, industrial property, planning and construction, tenders, municipal and state property, ownership reform, local issues, social rights, environmental law, maintenance of law and order, data protection and public information, national defence, etc.;

- Type of the matter – selection includes state public service, local government service, health protection and food control, consumer protection, general and higher education, activity licences and registration, industrial property, customs, vocational education, refugees, planning, taxes, levy, local issues, retirement benefits, health insurance, citizenship, language policies, social aid, weapon permits, data protection and public information, prisons, etc;

- Type of request – selection between compensation, annulment, elimination of consequences, establishment of unlawfulness, establishment of relationship, etc.;

- Judgement – selection between to be satisfied, to be satisfied in part, to be dismissed, to be terminated based on various grounds, action to be returned based on various grounds, refusal to hear the action, to be referred for a new hearing.

Misdemeanours

- Name of the law - selection is provided;

- Article of the law;

- Category of the matter – selection between misdemeanours committed by natural persons, misdemeanours committed by body corporate, natural person's/body corporate's appeal of the decision of the body conducting extra-judicial proceedings; natural person's/body corporate's appeal of the action of the body conducting extra-judicial proceedings, state legal aid, enforcement, other misdemeanours, other court cases initiated by the court of second instance.

- Type of the matter – selection between violation of traffic law: suspension of driving privilege, other violations of traffic law; violations of environmental law; violations of tax law; violations of consumer protection law; misdemeanours related to narcotics; misdemeanours against public

order; violations of public transportation regulations; other.

- Judgement – selection between to be satisfied, to be satisfied in part, to be dismissed, to be terminated, refusal to hear the action, to be referred for a new hearing.

While perhaps too detailed for general public, practitioners appreciate the possibility of determining the search parameters to such a wide extent. Having the chance to limit the results based on the name and article of the law serves the aims of both the legal professionals and the general public and is a big step forward from "KOLA" which offered this option only for judgements in criminal cases.

Results of the search are displayed with the number of the judgement, name of the court, date of the judgement, type of the judgement, name of the judge and date of enforcement. After choosing a particular judgement, the following additional information is displayed: date of the beginning of the court case, date of the beginning of the proceedings, type of proceedings (first or second instance), category of the case, type of the case (civil, criminal, administrative, misdemeanour), status of the proceedings, commentaries to enforcement and the PDF version of the document itself.

One of the strengths of the "KIS" database is that the search results specify in addition to the date of the judgement also the date of the enforcement of the judgement. This information gives indication of whether an appeal was filed in the case or not. Related to this, the "commentaries to enforcement" should ideally contain information regarding appeals and the effect of appeals on the lower court's judgement. Thus, sometimes this section includes such comments as ,"came into force without being appealed" or "came into force with the Supreme Court's judgement no ...". As one of the shortcomings of "KIS" database is the fact that judgements rendered by a search are not linked to its appeals, such commentaries are extremely useful. However, in practice there are irregularities in including such information and their inclusion depends on the willingness and the efforts taken by the officials that enter the data into the system.

Thus, ideally, all lower court judgements should be linked to their appeals but in case that is not possible, the results of a search should contain besides the date of the judgement also the date of enforcement as well as commentaries related to appeals.

Supreme Court Judgements

As already mentioned above, Supreme Court judgements are currently being administered in a separate database from the judgements of the courts of first and second instance. Thus, Supreme Court judgements are entered by the responsible judge or court employee into a database that is not in any way connected to the "KIS" database. This results in several inconveniences for the user of the databases. First of all, for finding a Supreme Court judgement, one has to enter a separate website which is located on the website of the Supreme Court itself. Thus, the accessibility of court judgements is hampered due to the fact that all judgements cannot be found in the same place. The citizen has to be aware of the fact that Supreme Court judgements are administered in a separate database and has to have the knowledge of the two websites. What causes even more confusion is the fact that the databases of the judgements of the courts of first and second instance are located on the Ministry of Justice's website, while the Supreme Court's judgements can be found on the website of the court itself. In addition, the search systems of the two database are not identical which means that one has to learn to use two different systems.

In fact Supreme Court judgements are currently being published in two places. Besides the website of the Supreme Court, which serves as the main source for most people, Supreme Court judgements are also available in the electronic version of the State Gazette. However, the State Gazette does not include a search system for these judgements and thus, they can only be found if one is aware of the edition of the State Gazette that the judgement was published in. As a result, the electronic State Gazette is not the most practical source for finding Supreme Court judgements. Publishing all Supreme Court Judgements in the State Gazette is not necessary and according to the Ministry of Justice's plan to create a consolidated system of legal information, this function of the electronic State Gazette will be abolished. However, judgements of the Constitutional Review Chamber will also in the future be available in the State Gazette, due to their possible effect on already existing legislation.

There is no rational why Supreme Court judgements could not be part of the same database as the judgements of lower courts. In fact, it would not only be logical but also important to include the judgements of all courts into the same database to facilitate access to public as well as to demonstrate the unity of judicial branch.[15] Consequently, the consolidated system of legal information aims to incorporate all court judgements into one database.

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15 Rein Lang "KIS: rohkem võimalusi" in "Amicus Curiae", 2005

At the moment, the database of the Supreme Court's judgements is searchable according to the following parameters:

- year (when the judgement was published);

- type of the matter (criminal or misdemeanour, civil, administrative or constitutional review);

- number of the court case;

- date of the judgement;

- Panel (3 judges, full chamber, special panel or *en banc*);

- Type of the proceedings (cassation, review, correction of court error or determination of competent court);

- Annotation;

- Text of the judgement.

The results can be displayed according to the date of the judgement or number of the court case and according to the content of the judgement or its annotation. The content includes a short description[16] of the case which makes it easier to determine the particular judgement one is looking for without having to review all the judgements as in case of "KIS". In "KIS" the results of the search do not include a description since a complaint by the Chancellor of Justice which drew attention to the violation of the protection of personal data as these descriptions often included the full names of the parties.[17] Thus, the search system of the database of Supreme Court judgements is considered more user-friendly than that of "KIS" and it is recommendable to include a short description of each case that the search yields.

Similarly to the shortcoming of "KIS", the database of the Supreme Courts' judgements does not include links or references to the judgements of the lower courts. As a result, one has to perform a separate search in the "KIS" database to find the original case and judgements of the lower courts. This

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16 e.g. "Petition of the Tallinn City Council for the declaration of invalidity of § 32(1) of the Accounting Act and § 11(5) of the Minister of Finance Regulation no. 105 of 11 December 2003, and for the declaration of unconstitutionality of the Accounting Standards Board Guideline RTJ 17", Case nr 3-4-1-14-08

17 For more information regarding the complaint of the Chancellor of Justice, see Issues Regarding Protection of Personal Data

shortcoming is a general one that derives from the fact that the databases are not gathered into one system and not operated by the same logic. As mentioned above, this is subject to change after the new consolidated system of legal information becomes a reality.

As far as the judgements delivered by the Chamber of Constitutional Review are concerned, the main shortcoming derives from the fact that these decisions are not searchable according to the laws they have effect on and neither are the judgements linked to these laws. Including a search parameter for finding all judgements relating to a particular piece of legislation and linking judgements to laws, would greately facilitate the search.

In general, however, it should be mentioned that Supreme Court judgements are more easily searchable than the judgements of the lower courts in the "KIS" database. This is primarily due to the short description of each case a search yields as well as to the simplicity of the search parameters.

Issues Regarding Protection of Personal Data

Protection of personal data in court judgements is guaranteed by Article 28(1) of the Public Information Act:

> (1) "A holder of information is required to disclose the following existing information related to its duties:
>
> [...]
>
> (29) court judgements entered into force with *restrictions arising from law*"

The restrictions referred to are stipulated in the Code of Civil Procedure Article 462:

> "[...]
>
> (2) Upon making public of a court judgement in the computer network, *the personal identification codes, registry codes, times of birth or addresses* of the participants in the proceeding shall not be disclosed. The court shall *replace*, in a judgement, *the names* of the participants in the proceeding and of witnesses with initials or characters.
>
> (3) At the court's initiative or based at the request of the data subject, the court shall publish only the conclusion of the judgement or shall fail to publish the judgement if the judgement contains *private or sensitive personal data* or if publication of the judgement together with personal data may materially breach the *inviolability of private life* of the person. The court shall adjudicate the request by a ruling."

The Code of Criminal Procedure Article 408[1] sets similar restrictions to the publication of personal data in published court judgements with the exception that the name and the personal identification code of the accused are published. The personal data of the rest of the parties to the case, including their names are not to be disclosed. Thus, in all cases, except for the accused in criminal proceedings, the names of the parties as well as the witnesses are not public information. In addition, the identification codes, registry codes, birth dates and address of the parties should not be disclosed. What is more, in case of private or sensitive data, especially for the protection of minors or for the confidentiality of adoption, parties to court proceedings have the right to request that the judgement not be published at all or at least not in full. This can also be adjudicated on the court's own initiative.

Regardless the legal provisions that protect personal data, up until the end of 2006, as a rule, courts were not replacing the names of the parties to a court case with initials or characters while the rest of the personal data, such as personal identification codes and addresses were removed from the published judgements. What is more, several judgements that contained sensitive personal data regarding adoption, health condition of the parties, deprivation of parental rights, etc. were published in full with all the names of the parties disclosed. Furthermore, as all search systems enable a key word search, it

was possible to look for judgements that contain the names of particular individuals.

These shortcomings seemed to be due to the carelessness of the courts and the lack of complaints and requests on behalf of the parties. In May 2006, the Chancellor of Justice[18] drew attention to this shortcoming in the electronic databases that resulted in a Memorandum[19] to the Minister of Justice.

The Chancellor of Justice screened randomly judgements of all court instances available in the electronic databases and discovered that in many cases, the restrictions set in the Codes of Civil and Criminal Procedure were not complied with. The screening revealed that each court was using a different practice in regard to the publication of personal data. In some cases the names of the parties were not replaced with initials or characters while in others such sensitive personal data as adoption information or deprivation of parental rights were published with the full names of the parties to the proceedings. In other cases in the judgement itself the names of the parties were replaced with initials or characters as required by law but remained in full under the title of the court case in the search mechanism of the database.[20]

In addition to the problem of personal data in the published court judgements, the Chancellor of Justice drew attention to a similar problem regarding the publication of upcoming court hearings on the websites of the courts.[21] According to Article 343 of the Code of Civil Procedure,

> "[...]
>
> (3) The time of the court session together with the indicator of the matter shall also be published in the Internet at the web page of the court."

In practice this means that in addition to the time of the upcoming court hearing, the place of the hearing and the name of the court, also the title of the hearing is published. The title, however, includes the object of the court hearing as well as the names of the parties. Thus, it is publicly announced on the internet that a certain court hearing is going to take place at a certain date between certain individuals. Thus, even if later in the judgement names of the parties are replaced with initials, it is nevertheless possible to identify them.

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18 Equals to the Ombudsperson in other judicial systems
19 Chancellor of Justice, Memorandum no. 7-3/060743/0603749 from May 2006, available in Estonian at http://www.oiguskantsler.ee/.files/90.doc
20 Chancellor of Justice, Memorandum no. 7-3/060743/0603749 from May 2006, available in Estonian at http://www.oiguskantsler.ee/.files/90.doc
21 Chancellor of Justice, Memorandum no. 7-3/060743/0603749 from May 2006, available in Estonian at http://www.oiguskantsler.ee/.files/90.doc

As a result of the Chancellor of Justice's Memorandum, the title of the court case is not any more included in the search mechanism of the database of the court judgements, thus solving the problem where names of the parties are replaced with initials in the judgement itself but published in full in the search mechanism. As for the replacement of names with initials or characters in the judgements themselves, the Minister of Justice declared that this is the obligation of the courts and promised to execute more extensive monitoring in that regard. As for the problem of publishing names of the parties of the upcoming court hearings, the Minister explained that this primarily serves the aim of informing the parties quickly and conveniently and in case parties do not want such information to be public, they can require the proceeding to be declared closed. [22]

A random screening of the published judgements shows that the problem of publishing private data has partly been solved. Judgements published in the "KIS" database as a rule do not contain private information and most judgements including sensitive private data such as adoption confidentiality have all together been removed from the database. However, there is still inconsistency in this practice and some judgements continue to include the full names of the parties. This is especially true regarding the judgements of the Supreme Court which are published separately from the "KIS" database on the website of the Supreme Court. A more extensive monitoring by the Ministry of Justice and the Chancellor of Justice would be needed.

Solving the issue of protection of personal data is one of the main difficulties regarding publication of court judgements. It is recommendable that the obligation to delete any personal information from the judgements be imposed on the court that delivers the judgement, as is the obligation to insert the judgements into the databases.

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22 Minister of Justice, Reply to the Memorandum no. 2-1-16/6206 from June 2006

Conclusion

As a conclusion I would like to point out some general recommendations regarding publication of court judgements in internet-based databases:

1. All court judgements that have entered into force should be published (taking into account the restrictions arising from law);

2. Responsibility to insert judgements into the databases could be imposed on the court and/or judge that renders the decision;

3. Special attention should be given to the protection of personal data;

4. All judgements of all courts should be published in the same searchable database;

5. Search parameters should be simple but at the same time offer additional, more detailed search options for legal professionals. Option to search according to the name and article of the law is recommendable;

6. All judgements should be linked to appeals or lower court decisions in the same case;

7. All constitutional review judgements should be linked to the legislation they have effect on;

8. Yielded results should contain short descriptions of the case which facilitate the identification of the particular case of interest.