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**THE “MOBYWATEL” APPLICATION AS A SIGN
OF THE INCREASE OF INFORMATION
OF THE POLISH SOCIETY – CRITICAL REMARKS
ON THE PRACTICAL APPLICABILITY OF THE TOOL**

Introduction

The digitalisation of social life is already a fact. However, this was not so obvious until recently. It is pointed out that a study conducted by the Ministry of Digitalisation in 2015 showed that “despite giving significant importance to the issue of informatisation and digitisation of the office in strategic documents both at the level of the European Union and Poland, the level of informatisation of public administration in Poland should be considered unsatisfactory”¹. Back in 2016, there has been talk about the plans of creating a Digital Poland², and around 10 billion PLN (Polish złoty) from national and EU funds were promised for the implementation of the process of informatisation and digitisation of the administration (above all, these investments were to include, primarily, offices, healthcare and cyber security)³.

Changes in this regard were already perceived in 2018, when it was argued that “The development of the information society, and thus the intensification of the role and use of modern information and communication technologies, causes a number of socio-economic changes. Among them is the development of eGovernment, which is seen as one of the ways to increase the efficiency of the public sector. (...) the benefits can be (...) considered both from the point of view of

¹ E. Kuzionko-Ochrymiuk, *Informatyzacja administracji publicznej w województwach Polski*, “Optimum. Economic Studies” 2018, no. 1(91), 2018, https://repozytorium.uwb.edu.pl/jsui/bitstream/11320/6848/1/Optimum_1_2018_E_Kuzionko-Ochrymiuk_Informatyzacja_dministracji_publicznej.pdf (29.08.2022), p. 160.

² More information on the programme is available on the website: <https://www.polskacyfrowa.gov.pl/> (29.08.2022).

³ See: C. Tchorek-Helm, *Polska Cyfrowa: informatyzacja administracji postępuje*, <https://branden.biz/polska-cyfrowa-informatyzacja-administracji-postepuje/> (29.08.2022).

the business sector, the citizens and the functioning of the office. Hence, it is estimated that intensifying the role of information and communication technologies in the process of delivering public services leads to an increase in the efficiency of the public sector”⁴.

Nowadays we often hear about the existence of the so-called information society, which is an interesting phenomenon. It is said in the literature that “In the majority of approaches the information society is understood as one whose most important feature is the production, collection and circulation of information – which is regarded as a necessary condition for its functioning”⁵. However, information society develops very quickly. It is stressed that “Much of what we think, say or write about the information society today will be either trivial knowledge or partly outdated or even ridiculous tomorrow due to the naivety of descriptions, judgements and evaluations. However, we acknowledge that it is a process of self-learning of the information society, a process of co-creating its self-awareness – always partial and unfinished”⁶. In order to be able to discuss what the future holds for us, it is worth reflecting on what has already been achieved so far in the sphere of e-services.

The establishment of a public mobile application

By virtue of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks⁷, new solutions have been introduced in Poland aimed at increasing digitisation and informatisation of Polish society. The material scope of the Act comprises the definition of rules for, among others, the exchange of information by electronic means, including electronic documents, between public entities and non-public entities (point 6); the establishment and publication of specification of solutions applied in the software enabling the connection and exchange of information, including the transmission of electronic documents, between information and communication technologies systems (ICT systems) of public entities and those of non-public entities (point 7); functioning of the electronic platform for public administration services (Polish: “ePUAP”) (point 8); the functioning of the central repository of templates of the electronic documents (point 9); the functioning of the public electronic identification system (point 9a) and the provision of the trusted signature service (point 9b).

⁴ E. Kuzionko-Ochymiuk, *Informatyzacja administracji...*

⁵ M. Golka, *Czym jest społeczeństwo informacyjne?*, “Ruch Prawniczy, Ekonomiczny i Socjologiczny” 2005, R. LXVII, nr 4, https://repozytorium.amu.edu.pl/bitstream/10593/5615/1/19_Marian_Golka_Czym%20jest%20spo%C5%82ecze%C5%84stwo%20informacyjne_253-265.pdf (29.08.2022), p. 254.

⁶ *Ibidem*, p. 265.

⁷ Dz.U. 2021, item 2070, consolidated text of 17 November 2021.

At the same time, in accordance with Art. 13 section 1 of the Act, a public entity uses for the implementation of public tasks ICT systems that meet the minimum requirements for ICT systems and ensure the interoperability of systems in accordance with the principles set out in the National Interoperability Frameworks.

Chapter 3 of the Act (provisions of Art. 13 to 20g), entitled “ICT systems used to perform public tasks, public registers and the exchange of information in electronic form between public entities”, is devoted to this subject. From the perspective of this study, the provisions of Art. 19 to 19j contained in the above chapter are most relevant. Article 19e section 1 of the Act of 17 February 2005 on informatisation of activities of entities performing public tasks⁸ stipulates that the minister competent for informatisation shall make available and ensure development of software intended for mobile devices, called “public mobile application”, which allows in particular for downloading, storing and presenting electronic documents referred to in section 2, as well as for transferring such documents between mobile devices or to ICT systems (point 1) and for verifying the integrity and origin of an electronic document (point 2). In addition, according to section 1a of the indicated provision, the minister may make available in a public mobile application a functionality allowing access to an online service operated by means of this application (point 1); confirmation of participation in services provided to the user of this application in a specified place and time (point 2); use, by means of a mobile device, of certificates contained in an ID card with an electronic layer (point 3); use of this application to transfer data within services provided to the user of this application (point 4).

In addition, on the basis of the section 2 of the provision being under consideration, the minister is obliged to ensure the operation of an ICT system which allows, by means of the public mobile application, for the downloading of an electronic document containing a number of relevant data relating to the user of the public mobile application, including his or her personal data extracted from various public registers, his or her legal situation or rights, those that allow the identification of the object associated with him or her, or the downloading of an electronic document which constitutes a copy of an official document that is issued in a form other than electronic. Additionally, under Art. 2a, the minister competent for informatisation may ensure to a user of a public mobile application the possibility to use a certificate constituting an electronic attestation allowing for confirmation of the integrity and origin of an electronic document (point 1) and confirmation or transfer of personal data of that user (point 2). The rules of issuing this certificate (it is issued in the ICT system) to the user of the public mobile application are specified by section 2b of Art. 19e of the Act. Moreover, section 3 of the analysed provision indicates that the user of the public mobile

⁸ Dz.U. 2021, item 2070, consolidated text of 17 November 2021.

application, having been authenticated in the manner prescribed in Art. 20a section 1 of the Act, may retrieve certain current data from the Register of Personal Identity Cards and the PESEL register⁹.

The rules of using a public mobile application are stipulated in Art. 19f of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, according to which it is free and voluntary (section, point 1), and, as a rule, it is possible after prior user authentication in the ICT system, referred to in the aforementioned Art. 19e of the Act, in a manner referred to in Art. 20a, section 1 of the Act. At the same time, the user of the mobile application may at any time resign from using the public mobile application (Art. 19f section 3). What is more, Art. 19h of the Act regulates the principles of data processing in the ICT system supporting the public mobile application, where it is indicated that the minister competent for informatisation processes personal data of the users of the public mobile application in the ICT system, but only to the extent necessary to handle electronic documents and perform activities specified in the Act, as well as to ensure ICT security and safety of legal transactions. The data are processed for a period of 6 years from the date of the last user activity in the system.

It is also worth pointing out that pursuant to Art. 19i of the Act, the minister competent for informatisation shall publish and immediately update in the Public Information Bulletin on his/her subject website, among others, information on active and inactive, including temporarily suspended, functionalities of the public mobile application (point 1), regulations for using the public mobile application (point 3, letter a), and conditions for using the certificate (point 4).

Characteristics of the mObywatel application and its functionalities

Originally, introduced by the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, the public mobile application was called “mTożsamość” (English: “mIdentity”), which as of 1 January 2022 was replaced by the name “mObywatel” (English: “mCitizen”), under which it currently operates and the template of the document was replaced with the new one. The reason for this change was the simplification of the name, as well as the fact that in any case most users of the application used – regardless of the type of service they used – the name mObywatel, which they considered most adequate¹⁰. The previous version of the application basically constituted just a so-called ID card in a phone, which contained practically the same data as a tradi-

⁹ PESEL register (Polish “Rejestr PESEL”) stands for the Universal Electronic Civil Registration System.

¹⁰ See: <https://www.gov.pl/web/mobywatel/mtozsamosc> (29.08.2022).

tional ID card and allowed for the verification of an individual's identity, while at the same time it did not replace an ID card¹¹. However, a serious shortcoming was pointed out, namely the lack of devices used for verifying the accuracy of the data contained in the application (e.g. at the airports, in offices when collecting passports or in blood donation centres), which made it impossible to use the application everywhere and therefore its applicability suffered significant limitations¹². For example, as an ongoing curiosity, it can be pointed out that currently notaries public still prefer the traditional form of verifying the identity of their clients, rather than using a mobile application, when performing actions. Such situation therefore called for appropriate changes in the law, including at statutory and regulatory level.

At the same time, it should be stressed that the mObywatel application does not replace an ID card, and therefore it will not be possible to use it when crossing Polish borders because outside the country, as well as when crossing its borders, it is necessary to present an ID card or a passport due to the fact that there is no uniform standard of services and electronic documents that is recognised by all countries, even at the EU level. It is equally important to remind that also verification of a natural person's identity in order to take part in notarial activities will not be possible via the mObywatel application, as it has already been mentioned. The situation is similar in the case of relevant banking or official activities.

According to § 1 section 1 of the Regulations for mObywatel application¹³, various services are available within this application (points 1–12)¹⁴, namely:

- “mObywatel lub usługa mObywatel” (English: “mCitizen or mCitizen service”), i.e. the Minister's service referred to in Art. 19e section 2 point 1 of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, available on the user's mobile device in the application, which allows to download the user's personal data from the PESEL register and the Register of Personal Identity Cards, to store them in an encrypted form on the user's mobile device, to show the user's data to other persons in order to confirm the identity of the user, and to transfer the user's personal data to public or non-public entities in order to use the services offered by them (point 1);

¹¹ See: K. Kubicka-Żach, R. Horbaczewski, *Dokument w telefonie, ale nie wszędzie dzwoni*, <https://www.prawo.pl/samorzad/mtozsamosc-czyli-tzw-dowod-osobisty-w-telefonie-nie-zastapi.502369.html> (29.08.2022); M. Nowak, *Duże zmiany w mObywatelu – z aplikacji zniknie mTożsamość*, <https://android.com.pl/artykuly/391353-duze-zmiany-w-mobywatelu-z-aplikacji-zniknie-mtozsamosc/> (29.08.2022).

¹² K. Kubicka-Żach, R. Horbaczewski, *Dokument w telefonie...*

¹³ Text of the Regulations of the mObywatel application is available on the website: <https://www.mobywatel.gov.pl/mobywatel.android.regulamin.12.0.0.pdf> (29.08.2022).

¹⁴ An up-to-date list of services available on the mObywatel application is also available on the government website: <https://www.gov.pl/web/mobywatel/mobywatel-dokument> (29.08.2022).

- **“mLegitymacja szkolna”** (English: “mSchool ID card”), i.e. an electronic document referred to in § 3 section 1a of the Regulation of the Minister of National Education of 27 August 2019 on certificates, state diplomas and other school forms¹⁵ and § 4 section 5 of the Regulation of the Minister of Culture and National Heritage of 16 April 2020 on certificates, state diplomas and other forms of public schools and art institutions¹⁶ in connection with Art. 19e section 2 point 2 of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks (point 2);
- **“mPojazd”** (English: “mVehicle”) i.e. the Minister’s service referred to in Art. 19e section 2 point 3 of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, and in the Act of 20 June 1997. – Law on road traffic¹⁷, which allows to download the user’s personal data linked to the vehicle data disclosed in the Central Vehicle Register (Polish: “Centralna Ewidencja Pojazdów”) database and the vehicle data contained in this database and presented to other Users in a secure manner (point 3);
- **“mLegitymacja studencka”** (English: “mStudent ID card”), i.e. an electronic document referred to in § 20 section 2 of the Regulation of the Minister of Science and Higher Education of 27 September 2018 on studies¹⁸, in relation to Art. 19e section 2 point 2 of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks (point 4);
- **“eRecepta”** (English: “e-Prescription”), i.e. the service of the Minister of Health allowing access, through the application, to the patient’s Internet account with regard to the presentation of unfulfilled electronic prescriptions – electronic documents referred to in Art. 2 point 6 letter a of the Act of 28 April 2011 on the healthcare information system¹⁹ (point 5);
- **“Polak za granicą”** (English: “Pole Abroad”), which is a service of the Minister of Foreign Affairs allowing access, through the application, to information for travellers prepared by Polish diplomatic posts in cooperation with the Ministry of Foreign Affairs. Detailed rules for using the service have been specified separately on the website of the Minister of Foreign Affairs²⁰; it must be stressed that the use of the service requires an active internet connection (point 6);
- **“mPrawo Jazdy i Punkty Karne”** (English: “mDriving Licence and Penalty Points”), i.e. the Minister’s service referred to in Art. 19e(2)(2) of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, which allows the user to download personal data from the mCit-

¹⁵ Dz.U. 2019, item 1700 of 5 September 2019.

¹⁶ Dz.U. 2020, item 813 of 7 May 2020.

¹⁷ Dz.U. 2022, item 988, consolidated text of 11 May 2022.

¹⁸ Dz.U. 2021, item 661, consolidated text of 9 April 2021.

¹⁹ Dz.U. 2022, item 1555, consolidated text of 26 July 2022.

²⁰ <https://www.gov.pl/web/dyplomacja/polakzaganica> (29.08.2022).

- izen service and the related driving licences from the Central Register of Drivers (CEK) database and to store them in an encrypted form in the user's mobile device and to display them (point 7);
- **“Szczepienie COVID-19”** (English: “COVID-19 Vaccination”), i.e. a service of the Minister of Health and the Minister of Digitalisation, referred to in Art. 19e section 2 of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, which enables the presentation in the application of confirmation of vaccination against the SARS-CoV-2 virus for vaccinated users (point 8);
 - **“MKA – Małopolska Karta Aglomeracyjna lub Usługa Małopolska Karta Aglomeracyjna lub Usługa MKA”** (English: “the Małopolska Agglomeration Card or the Service of the Małopolska Agglomeration Card or the MKA Service”), i.e. the online service of the Regional Roads Authority (Polish: “Zarząd Dróg Wojewódzkich”) in Cracow (budgetary unit of the Małopolska Voivodeship Self-Government), available to persons holding an MKA Card and an account in the MKA system²¹ (point 9);
 - **“Bilkom – bilety kolejowe”** (English: “Bilkom – train tickets”), i.e. an online service by Polish National Railways (Polish: “Polskie Koleje Państwowe”; “PKP” in short) allowing presentation in the mObywatel application of train tickets purchased on the following websites: bilkom.pl or bilet.wielkopolskie bilety.pl (point 10);
 - **“mKDR”**, i.e. **“Karta Dużej Rodziny”** (English: “the Large Family Card”), a service of the Minister of the Family and Social Policy and the Minister of Digitalisation, referred to in Art. 19e section 2 point 2 of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, available on the user's mobile device in the application, the use of which is subject to the conditions specified in the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, the Act of 5 December 2014 on the Large Family Card²² and the Regulations of the mKDR service²³ (point 11);
 - **“Unijny Certyfikat Covid”** (English: “EU Covid Certificate”) – a service of the Minister of Health providing, pursuant to Art. 7b section 1a of the Act of 28 April 2011 on the healthcare information system, also in the application, confirmation that a person has been vaccinated against the SARS-Cov-2 virus and/or has passed the SARSCov-2 virus test and/or has passed COVID-19 (point 12).

²¹ <https://mka.malopolska.pl/aplikacja-mobilna-imka> (29.08.2022).

²² Dz.U. 2021, item 1744, consolidated text of 27 September 2021.

²³ Regulations of mKDR in the mCitizen application – available functions, personal data protection, licence regulations – Text available on the website: <https://www.mobywatel.gov.pl/mobywatele.mKDR.regulamin.1.0.0.pdf> (30.08.2022).

It is now also possible to log in via the mObywatel application to the e-Tax Office – the functionality called: “Twój e-PIT” (English: “Your e-personal income tax [declaration]”), i.e. the online service of the Ministry of Finance and the National Tax Administration in order to settle your tax online, without having to visit a tax office. By means of this tool a user of the mObywatel application can also check his or her list of fines or an individual micro-tax account number²⁴.

Moreover, § 2 section 4 of the Regulations of the mObywatel application defines the term “mWeryfikator” (English: “mVerifier”), which according to this provision, should be understood as “the Minister’s software, which is an element of the public mobile application system referred to in Art. 19e of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, designed to be installed on a mobile device, cooperating with the mObywatel service and enabling the confirmation of personal data in the mObywatel service”. As already mentioned above in connection with the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, downloading the application and using it is free of charge (§ 3 section 1 sentence 1 of the Regulations of the mObywatel application), its use by users is voluntary – its possession and use is not a legal obligation of citizens of the Republic of Poland or any other persons residing in the territory of the Republic of Poland (§ 3 section 2 of the Regulations of the mObywatel application). As far as the technical requirements are concerned, it should be remembered that in order to properly and fully use the application, the user should have a mobile device of the smartphone type with the Android 6.0 system or higher and with access to the Google Play shop (§ 4 section 1 of the Regulations of the mObywatel application).

What is more, § 5 section 1 sentence 1 of the Regulations of the mObywatel application defines the conditions of safe use of the application, according to which in the event of loss, theft of the mobile device or its loss for other reasons, the user may report this fact to the Minister responsible for informatisation²⁵ in order to revoke the certificates downloaded to the device.

In the direction of creating a European digital identity wallet

Already by the end of 2021 Poland – in connection with the introduction of the mObywatel application – was set as a model against the background of the European Union Member States, especially in a situation where, at the level of the EU institutions, work on the so-called European wallet is still in

²⁴ <https://www.podatki.gov.pl/e-urzed-skarbowy/> (29.08.2022).

²⁵ According to § 2 section 1 the minister responsible for informatisation means the Minister of Digitisation with headquarters in Warsaw.

progress²⁶. It is also pointed out that “a whole ecosystem will be created around mObywatel, enabling local governments to issue documents more easily, such as city cards or tickets”²⁷.

However, the process of increasing digitisation and informatisation of society does not only concern Poland itself, it is also ongoing within the European Union. It should be emphasised that a few EU Member States already have official digital identity verification systems in place, some are still working on its introduction²⁸. As far as Poland is concerned, according to the EU Digital Economy and Society Index published by the European Commission on 12th November 2021 (DESI 2021), Poland has dropped from 23rd to 24th place in the ranking of digital advancement in the EU Member States and in terms of the degree of digitisation of public offices it ranks only 22nd in comparison with other European Union Member States, but the sector is changing rapidly in this respect to its advantage²⁹. Subsequently, in the EU Digital Economy and Society Index published by the European Commission in 2022 it was stated that “Poland ranks 24th of 27 EU Member States in the 2022 edition of the Digital Economy and Society Index (DESI). However, between 2017 and 2022, Poland’s aggregate DESI score grew slightly more than the EU average, signalling that Poland is catching up with the rest of the EU”³⁰.

It is worth noting here that on 3rd June, the European Commission announced plans for establishing a so-called “European digital identity wallet”, aimed at enabling quick, easy and secure access for EU citizens to public and private services (including digital commerce) through their mobile devices. When the tool is approved, the identification of EU citizens in all EU Member States will be more accessible and secure – as indicated, the European Commission aims to have 80% of EU citizens using the European digital identity wallet by 2030³¹. The European Commission wants each and every EU citizen to have access to the European digital identity wallet, however, it is argued that the introduction of such a solution would not only be costly but it would constitute a much bigger undertaking than the introduction of the EU Digital Covid Certificate since many IT systems across Europe would have to be adapted to support it (including

²⁶ P. Rozynski, *mObywatel stawiany jako wzór w UE*, <https://cyfrowa.rp.pl/cyfryzacja/art19234581-mobywatel-stawiany-jako-wzor-w-ue> (29.08.2022).

²⁷ *Ibidem*.

²⁸ The country overview is available on the website: <https://ec.europa.eu/cefdigital/wiki/display/CEFDIGITAL/Country+overview> (29.08.2022).

²⁹ <https://www.dw.com/pl/cyfryzacja-w-ue-polska-na-24-miejscu/a-59807828> (29.08.2022).

³⁰ The Digital Economy and Society Index for 2022 – the DESI country profile regarding Poland is available in English and Polish on the website: <https://digital-strategy.ec.europa.eu/en/policies/desi-poland> (29.08.2022).

³¹ M. Stiltner, *What is the official European Digital Identity Wallet?*, <https://www.rapyd.net/blog/what-is-the-official-european-digital-identity-wallet/> (29.08.2022).

government offices, health services or law enforcement agencies), as well as all EU Member States would need to be legally obliged to use the new solution which does not go hand in hand with the most Eurosceptic governments which treat unification as a threat to their national sovereignty and distinctiveness³².

The envisaged tool is not intended for making or receiving payments, as its name would suggest. The tool is planned as an application which EU citizens could download to their smartphones and could, among others, store there various digital identification forms, as well as numerous official documents, such as ID card, bank account information, medical documentation or a driver's license³³. However, it seems that both Polish and other EU citizens are interested in an application of a more service nature, which would contain products in the field of public administration, ready to use via smartphone.

Informatisation and digitisation of the legal sector

It is also worth pointing out that the introduction of the government application mObywatel had a significant impact on the activity of self-governments of some public trust professions, including advocates and legal advisers. Also in this area, the need for changes towards greater digitalisation is emphasised. Both legal professional bodies are becoming increasingly computerised, which is to be welcomed. This has also been fostered by the COVID-19 pandemic, which necessitated the introduction of remote hearings, as well as increasingly frequent contact with clients and business partners, and the provision of mandatory and optional in-service training for advocates and legal advisers via various online platforms. In addition, the changes introduced by the amendment to the Code of Civil Procedure regarding e- delivery services (Polish: "e-doręczenia")³⁴ by improving the functionality of the Common Courts Information Portal (Polish: "Portal Informacyjny Sądów Powszechnych") have also contributed to greater digitisation and computerisation of the legal community.

³² R. Kosarzycki, *Nie tylko europejski paszport cyfrowy. KE chce cyfrowego portfela dla wszystkich mieszkańców UE*, <https://spidersweb.pl/2021/06/cyfrowy-portfel-nowy-pomysl-ke.html> (29.08.2022).

³³ *Ibidem*.

³⁴ On 3 July, the Act of 28 May 2021 on amending the Act – Code of Civil Procedure and certain other acts entered into force (Dz.U. 2021, item 1090 of 18 June 2021). On the same day, the Act of 2 March 2020 on special solutions related to the prevention, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them (Dz.U. 2021, item 2095, consolidated text of 22 November 2021) entered into force, article 15zsz⁹ of which introduced changes to the service of pleadings through the Common Courts Information Portal (Polish: Portal Informacyjny Sądów Powszechnych). Subsequently, as of 29 November 2021, a new tab "e-Delivery" (Polish: "e-Doręczenia") became operational on the Common Courts Information Portal.

For a long time, the Advocates' Bar Association has been advocating the introduction of the so-called e-legitimacy (a special e-ID card) into the mObywatel application – both for attorneys and trainee attorneys, including the possibility of logging into the attorney panel and even the already mentioned Common Courts Information Portal, which are used by professional attorneys on a daily basis.

Nevertheless, according to Internet sources, Przemysław Rosati, the President of the Polish Advocates' Supreme Bar Council (Polish: “Naczelna Rada Adwokacka”; in short: “NRA”), points out that: “We should move with the times, respecting the fact that not everyone wants to go this way. Therefore, there must be an alternative (...) I would like to ensure that the advocate's ID is also available in an electronic version, i.e. as a digital copy of the classic plastic document. This would, of course, be an alternative, not an obligation, depending on the autonomous decision of the advocate or trainee advocate. It would be an additional option. I am aware that not everyone may want to use it, e.g. there are people who are digitally excluded”; the above is also confirmed by the President of the National Council of Legal Advisers, who believes that in practice, problems may arise with the very possibility of using e-professional ID card (Polish: “e-legitymacja”), including a limited number of places where it could be used, as e.g. “courts are still closer to paper”³⁵.

The President of the Polish Advocates' Supreme Bar Council Przemysław Rosati has long pointed to the need to introduce an efficient, fully digitalised system, which would enable professional representatives to communicate digitally with the professional self-government and the judiciary, e-training for advocates and trainee advocates, e-patronage, an internal e-platform of the Bar Council, and eventually a digital (virtual) office with various tools facilitating the work of advocates, including case management, electronic workflow, e-signature, e-invoicing and e-fax³⁶.

As a result of these deliberations, according to the information of 28 March 2022, the President of the Advocates' Supreme Bar Council, Przemysław Rosati, and advocate Jarosław Szczepaniak signed a contract with the Minister of Digitalisation to produce a prototype of an e-identification card (Polish: “e-legitymacja”; hereinafter also referred to as “e-ID card”) for advocates and trainee advocates. It was agreed that the e-ID card will be available in the public mobile application mObywatel before the end of 2022 as “an equivalent to the traditional ID card way of identifying advocates and trainee advocates within the entire justice system and before public administration bodies”³⁷. According to the most recent

³⁵ P. Rojek-Socha, *Legitymacje adwokackie i radcowskie przejdą do lamusa? Samorządy chcą wersji elektronicznej*, <https://www.prawo.pl/prawnicy-sady/legitymacja-adwokacka-radcowska-samorzady-chca-wersji,509804.html> (29.08.2022).

³⁶ See: P. Rojek-Socha, *E-legitymacja adwokatów coraz bliżej – powstaje prototyp*, <https://www.prawo.pl/prawnicy-sady/adwokacka-e-legitymacja,514240.html> (29.08.2022).

³⁷ Information from the meeting of the Presidium of the Advocates' Supreme Bar Council of 31 March 2022 are available on the website: <https://www.adwokatura.pl/z-zycia-nra/posiedzenie-prezydium-naczelniej-rady-adwokackiej-31-marca-2022-r/> (29.08.2022) and information available

information of 2 August 2022, the President of the Advocates' Supreme Bar Council, Przemysław Rosati, signed an agreement with the Minister of Digitalisation to implement the production of the abovementioned electronic card for advocates, trainee advocates, foreign lawyers and non-practising advocates (it will be available to attorneys and trainee attorneys registered in the National Register of Attorneys and Trainee Attorneys who have an active mObywatel service), which will be available on Android and iOS devices and will be linked to the public application mObywatel and finally named "m-ID card" (Polish "mLegitymacja"); the agreement envisages the implementation of m-ID card production in the first quarter of 2023³⁸.

In addition to the above-mentioned benefits of increasing digitisation and computerisation of the legal environment, including through the introduction of the above-mentioned e-ID cards, possible threats are also indicated. Among them, the most frequently mentioned are the risk of loss or theft (hacking) of personal data (so-called sensitive data), the development of cyber-attacks on personal data, the failure to develop sufficiently effective cyber security standards, and above all, the possibility of breaching attorney-client privilege – that of advocates and legal advisers, including defence confidentiality³⁹.

Changes regarding citizens of Ukraine – inclusiveness

Attention should also be drawn to the provision of Art. 10 of the recently adopted Act of 12 March 2022 on assistance to citizens of Ukraine in connection with the armed conflict on the territory of the country⁴⁰ (hereinafter referred to as: "Act on assistance to citizens of Ukraine") provides for the possibility to activate the public mobile application mObywatel also for Ukrainian citizens residing in Poland. As a result, Ukrainian citizens staying on the territory of Poland may benefit from a number of important digital facilities, including an easier and faster process of verification of their identity and sensitive data by state authorities (possibility to identify oneself), access to the Internet in order to download specific data, as well as the possibility – as mObywatel application users – to confirm their participation in services provided to them (the so-called e-services, e.g. e-prescriptions) or to transfer relevant data to various state entities as part of such

on the website: <https://www.adwokatura.pl/z-zycia-nra/zaawansowane-prace-nad-e-legitymacja-adwokata-i-aplikanta/> (29.08.2022).

³⁸ <https://www.adwokatura.pl/z-zycia-nra/mlegitymacje-dla-adwokatow-i-aplikantow-adwokackich-na-poczatku-2023-r/> (29.08.2022).

³⁹ P. Rojek-Socha, *E-legitymacja adwokatów...*

⁴⁰ The Law of 12 March 2022 on assistance to citizens of Ukraine in connection with the armed conflict on the territory of Ukraine (Dz.U. 2022, item 583 of 12 March 2022), which in its essential part, in this respect Art. 10, entered into force on 12 March 2022.

services. This solution is aimed, among others, at facilitating efficient and safe handling of official matters for these persons, which is indirectly indicated in paragraph 5 of the cited provision.

Firstly, according to section 1 of Art. 10 of the Act on assistance to citizens of Ukraine, the minister in charge of informatisation may, within the public mobile application referred to in Art. 19e of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, after authentication using the electronic identification means referred to in Art. 20a section 1 of this Act⁴¹, enable a Ukrainian citizen whose residence in the territory of the Republic of Poland is considered legal pursuant to Art. 2 section 1 of the Act on assistance to citizens of Ukraine⁴², downloading, storing and presenting an electronic document containing updated data from the register of persons referred to in Art. 6 section 1 of the Act on assistance to citizens of Ukraine (register of citizens of Ukraine who have been assigned a PESEL number⁴³), as referred to in Art. 4 section 4 points 1 to 15 of that Act⁴⁴ and Art. 6 section 5

⁴¹ Pursuant to Art. 20a section 1 of the Act of 17 February 2005 on the informatisation of the activity of entities performing public tasks, the authentication of a user of a public entity's ICT system in which online services are made available requires the use of an electronic identification means issued in an electronic identification system connected to a national node of electronic identification referred to in Art. 21a section 1 point 2 letter a of the Act of 5 September 2016 on trust services and electronic identification (Dz.U. of 2021, item 1797, consolidated text of 1 October 2021), according to which: "A national electronic identification scheme includes electronic identification systems connected to a national node, where electronic identification means are issued" (point 1) or an electronic identification means issued in a notified electronic identification scheme (point 2) or data verified with a qualified electronic signature certificate, if these data allow identification and authentication required for the provision of an online service (point 3).

⁴² Pursuant to Art. 2 section 1 of the Act on Assistance to Citizens of Ukraine, if a citizen of Ukraine (this refers to citizens of Ukraine who arrived on the territory of the Republic of Poland from the territory of Ukraine in connection with the hostilities conducted on the territory of that country, as well as to citizens of Ukraine holding the Card of the Pole (Polish: "Karta Polaka") who, together with their immediate family, arrived on the territory of the Republic of Poland due to those hostilities), arrived legally on the territory of the Republic of Poland in the period from 24 February 2022 (the first day of Russia's invasion of Ukraine) until the date specified in the regulations issued pursuant to section 4 of the Act and declares his/her intention to stay on the territory of the Republic of Poland, his/her stay on the territory of the Republic of Poland shall be deemed legal for a period of 18 months counting from 24 February 2022; provided, however, that the stay of a child born on the territory of the Republic of Poland by a mother, who is the person specified above, during the period concerning the mother shall also be deemed legal.

⁴³ A PESEL number (Polish: "numer PESEL") stands for a number of the Universal Electronic Civil Registration System.

⁴⁴ It concerns the following data: forename(s); surname; unique registration number assigned by the Ukrainian authority; citizenship; forename of the mother of the minor, if documented; surname of the mother of the minor, if documented; forename of the father of the minor, if documented; surname of the father of the minor, if documented; PESEL registration numbers of the parents, if assigned and known; date of birth; place of birth; country of birth; sex; date of entry into the territory of the Republic of Poland; date of filing of an application.

points 2 and 3⁴⁵, data referred to in the Act of 24 September 2010 on population registration⁴⁶ in Art. 8 point 24⁴⁷ and point 24a letter d⁴⁸ (point 1), as well as verification of the integrity and origin of the electronic document (point 2).

Secondly, pursuant to section 2 of Art. 10 of the Act on assistance to citizens of Ukraine, the minister competent for informatization may provide in a public mobile application a citizen of Ukraine, whose stay in the territory of the Republic of Poland is considered legal pursuant to Art. 2 section 1 of this Act, who downloaded an electronic document – a public mobile application referred to in Art. 19e of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks, a functionality allowing access to an online service supported by this application (point 1), confirmation of participation in services provided to the user of this application in a specified place and time (point 2) and the use of this application to transfer data within the services provided to the user of this application (point 3).

Thirdly, pursuant to section 3 of Art. 10 of the Act on assistance to citizens of Ukraine, the minister competent for informatization may also provide a citizen of Ukraine, whose stay in the territory of the Republic of Poland is deemed legal pursuant to Art. 2 section 1 of this Act, being a user of a public mobile application, with the possibility to use the certificate referred to in Art. 19e section 2a of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks (it is a certificate constituting an electronic attestation allowing for confirmation of integrity and origin of an electronic document and confirmation or transfer of personal data of that user), after authentication with the use of electronic identification means referred to in Art. 20a section 1 of the Act of 17 February 2005 on informatisation of the activities of entities performing public tasks.

At the same time, according to section 4 of Art. 10 of the Act on assistance to citizens of Ukraine, the above mentioned certificate may contain data such as name(s), surname and citizenship (see Art. 4, section 4, points 1, 2 and 4 of the Acts on assistance to citizens of Ukraine) and PESEL number (Art. 6, section 5, point 2 of the Act on assistance to citizens of Ukraine), which are collected in the register of citizens of Ukraine who have been assigned a PESEL number.

⁴⁵ It concerns the following data: the PESEL number and a photograph, attached to the application, submitted to any executive body of a municipality in the territory of the Republic of Poland for assigning a PESEL number, meeting the requirements specified in Art. 29 of the Act of 6 August 2010 on identity cards (Dz.U. 2022, item 671, consolidated text of 25 March 2022).

⁴⁶ Dz.U. 2022, item 1191, consolidated text of 3 June 2022.

⁴⁷ This involves the following data: the series, number and expiry date of the foreigner's valid travel document or other valid document proving identity and citizenship, and, in the case of a person referred to in Art. 1 section 1 of the Act on Assistance to Citizens of Ukraine, the designation of the document on the basis of which the person's identity has been established.

⁴⁸ This concerns the following data: the foreigner's status as "UKR" – in the case of a Ukrainian citizen who has been assigned a PESEL number pursuant to article 4 of the Act on assistance to citizens of Ukraine.

The Diia.pl service

It is worth noting that a similar solution to the Polish mObywatel application was available in Ukraine, which operated under the name “Diia.pl” (Ukrainian: “Дія пл”). Its Polish equivalent (with the abbreviation “pl” added after the dot) was created based on its model, which is available within the Polish mObywatel application. As a result of the above mentioned regulations, after being assigned a PESEL number, persons who have Ukrainian citizenship may also use – provided they have an active trusted profile – a digital (electronic) identity document called “Diia.pl” (Ukrainian: “Дія пл”) available in the mObywatel application⁴⁹, which allows identification for the purposes of receiving reimbursed medical services or during the conclusion of an employment contract – it is pointed out that its confirmation of a person’s identity is as effective as the use of an identity card or a passport⁵⁰. This document contains the most important personal data, in particular name and surname, photograph and PESEL number. This solution can be used by all persons who have the citizenship of Ukraine, who are of legal age and who crossed the Polish-Ukrainian border after 24 February 2022, i.e. the first day of Russia’s invasion on Ukraine. In online sources it is stated that the document was first issued to a Ukrainian citizen named Svetlana on 13 March 2022, while the first person to receive a PESEL number under the new procedure for persons from Ukraine was a woman named Oksana⁵¹.

Conclusions

While we can say that computerisation of public offices in Poland is progressing, the question arises whether at this stage we are already dealing with a fully developed information society. Undoubtedly, the introduction of the relatively comprehensive mobile application mObywatel testifies to an important social transformation in Poland. The process of computerisation and digitalisation has accelerated considerably in the last few years, which – paradoxically – has been greatly influenced by the coronavirus pandemic. Internet sources claim that digital development within the European Union has been accelerated by up to seven

⁴⁹ <https://www.gov.pl/web/mobywatel/ua> (29.08.2022). See also: A. Malinowska, *mObywatel dla obywateli Ukrainy. Warunek – numer PESEL*, <https://www.dziennikprawny.pl/pl/a/mobywatel-dla-obywateli-ukrainy-warunek-numer-pesel> (29.08.2022).

⁵⁰ R. Horbaczewski, *Obywatele Ukrainy mogą korzystać z dokumentu Diia.pl w aplikacji mObywatel*, <https://www.prawo.pl/samorzad/dokument-diiapl-w-aplikacji-mobywatel-dla-uchodzcy-z-ukrainy,514106.html> (29.08.2022).

⁵¹ M. Szutiak, *Ruszyło wydawanie cyfrowych dokumentów Diia.pl (Дія пл)*, <https://www.telepolis.pl/wiadomosci/wydarzenia/uchodzcy-z-ukrainy-e-uslugi-diaa-pl> (29.08.2022).

years as a result⁵². Hopefully, the process of creating ever newer and more advanced e-services will accelerate in the near future, and the possibility of using them will not only become commonplace among the public (including different age groups), but will soon become our new reality.

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⁵² <https://www.dw.com/pl/cyfryzacja-w-ue-polska-na-24-miejscu/a-59807828> (29.08.2022).

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Streszczenie

Celem niniejszego artykułu jest wskazanie znaczenia informatyzacji społeczeństwa na przykładzie polskiej aplikacji „mObywatel” wykorzystywanej na urządzeniach mobilnych z pełnym systemem operacyjnym Android w wersji 6.0 lub wyższej oraz smartfonach z systemem iOS 13 lub nowszym, co stanowi niezwykle osiągnięcie na tle innych państw członkowskich Unii Europejskiej. Za pomocą tego unikalnego narzędzia cyfrowego obywatele polscy mogą ułatwić sobie wiele codziennych czynności, które wymagają m.in. udostępnienia swoich dokumentów do kontroli, np. podczas kontroli Policji, w czasie podróży pociągiem, przy sprawdzaniu ważności cyfrowego Unijnego Certyfikatu Covid na lotnisku czy wykupie przepisanych leków w aptece. Jednak mimo iż aplikacja „mObywatel” staje się coraz bardziej popularna, szczególnie wśród osób młodych i w średnim wieku, to nadal podlega ona pewnym istotnym ograniczeniom, często wynikającym z niedoskonałości obowiązujących przepisów prawa oraz obaw związanych z ochroną danych osobowych. Należy mieć nadzieję, że proces wprowadzania Europejskiego Portfela Cyfrowej Tożsamości będzie miał istotny wpływ na jeszcze większe możliwości praktycznego zastosowania analizowanego narzędzia. Warto zauważyć, że z uwagi na brak literatury w tym dynamicznie rozwijającym się obszarze niniejsze opracowanie wydaje się być jedną z nielicznych naukowych dyskusji prawniczych na ten temat, która koncentruje się na tej wyjątkowo interesującej aplikacji.

Słowa kluczowe: publiczna aplikacja mobilna, aplikacja mObywatel, społeczeństwo informacyjne, informatyzacja, usługi elektroniczne (e-usługi), Europejski Portfel Cyfrowej Tożsamości, e-legitymacja, usługa Diia.pl

THE “MOBYWATEL” APPLICATION AS A SIGN OF THE INCREASE OF INFORMATION OF THE POLISH SOCIETY – CRITICAL REMARKS ON THE PRACTICAL APPLICABILITY OF THE TOOL

Summary

The aim of this article is to indicate the importance of the informatisation of a society by way of example of the Polish “mObywatel” application used on mobile devices running the full Android operating system version 6.0 or higher and smartphones running iOS 13 or later, which

constitutes a remarkable achievement compared to other Member States of the European Union. By means of this unique digital tool Polish citizens are able to facilitate many of their everyday activities which require, among others, making their documents available for inspection, e.g. during Police control, while travelling by train, when checking the validity of the EU Digital Covid Certificate at the airport or prescribed medicines at the pharmacy. However, although the “mObywatel” application becomes more popular, especially among young and middle-aged people, it is still subject to some significant limitations, often caused by the shortcomings of the current legislation and concerns relating to data protection. Hopefully, the process of introducing the European Digital Identity Wallet will have a major impact on even greater practical applicability of the analysed tool. It is worth noting that due to the lack of literature in this dynamically developing area, this study seems to be one of the very few scientific legal discussions on the topic which concentrates on this exceptionally interesting application.

Keywords: public mobile application, mObywatel application, information society, informatisation, electronic services (e-services), European Digital Identity Wallet, e-ID card, Diia.pl service