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Redesigning The Turkish Civil Litigation System in the Light of Online Dispute Resolution (ODR)*

Türk Hukuk Yargılama Sistemini Çevrim İçi Uyuşmazlık Çözümleri Işığında Yeniden Tasarlamak**

Arş. Gör. Barış MIDIK***

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Abstract

There are important developments across the world concerning online dispute resolution (ODR) methods. It would not be wrong to consider these ODR developments as a new movement, similar to the alternative dispute resolution (ADR)

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*** Kocaeli Üniversitesi, Hukuk Fakültesi, Medeni Usul ve İcra İflas Hukuku Anabilim Dalı.

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methods. Therefore, in the long run, the existence of ODR-infused judicial procedures may be deemed essential for adequate access to justice. In this context, we tried to rethink the Turkish civil litigation system in this article in the light of ODR approach. It should be stressed that technology cannot solve all the problems of the judiciary. However, if technology can be applied properly and carefully, eventually it would be possible to find solutions for some of the structural flaws inherent in the current Turkish civil litigation system. As in many legal systems around the world, the length of court proceedings and the difficulty of accessing legal information affect the Turkish legal system. Developments in the area of online dispute resolution can make a significant contribution to solving these problems. For this reason, it is important to rethink judicial procedures in the light of ODR methods.

Keywords: Access to Justice, Turkish Civil Litigation System, National Judiciary Informatics System, Digitization, Transformation.

Özet

Günümüzde çevrim içi uyuşmazlık çözüm yöntemlerine (ODR) ilişkin dünya genelinde önemli gelişmeler yaşanmaktadır. Bu gelişmeleri, alternatif uyuşmazlık çözüm (ADR) yöntemlerine benzer yeni bir hareket olarak değerlendirmek yanlış olmayacaktır. Dolayısıyla ileride çevrim içi uyuşmazlık çözüm yöntemlerinden beslenen yargı usullerinin varlığı, adalete erişim için zorunlu görülebilir. Bu nedenle bu makalede, Türk hukuk yargılama sistemini çevrim içi uyuşmazlık çözümleri ışığında yeniden düşünmeye çalıştık. Teknoloji, yargı sisteminin tüm sorunlarını çözemez fakat teknolojik gelişmeler doğru ve dikkatli bir şekilde uygulanabilirse, mevcut Türk medeni yargılama sisteminin yapısal sorunlarından bazılarına çözüm bulmak mümkün olabilir. Dünyadaki birçok hukuk sisteminde olduğu üzere, yargılama sürelerinin uzunluğu ve hukuki bilgiye erişimin zorluğu Türk hukuk yargılamasını da etkilemektedir. Çevrim içi uyuşmazlık çözümleri alanında yaşanan gelişmeler bu sorunların çözümünde önemli katkılar sağlayabilir. Bu nedenle makalemizde, Türk hukuk yargılamasının teknolojik gelişmelerden yararlanılarak nasıl daha etkili ve verimli hale getirilebileceği üzerinde durmaya çalıştık. Bu yönde bir çabanın Türk medeni usul hukukunda adalete erişim açısından önemli sonuçlar doğurabileceği kanaatindeyiz.

Anahtar kelimeler: Adalete Erişim, Türk Hukuk Yargılama Sistemi, UYAP, Dijitalleşme, Dijital Dönüşüm.

INTRODUCTION

Efforts to integrate digitalization into the Turkish justice system began many years ago. One of the most important parts of these efforts is the

National Judiciary Informatics System (UYAP)[1]. As a judicial digitization project, UYAP has been used in Turkish courts since the early years of the millennium[2]. Thus, the Turkish judiciary has considerable experience and history in court digitization. However, in order to truly utilize technology in the judicial process, it is important to have a comprehensive, innovative and holistic approach to the implementation of technology in civil courts. In this context, recent developments in the field of Online Dispute Resolution (ODR) provide important ideas and insights into the potential role of digital technologies. Our aim in this article is to formulate concrete proposals for restructuring the Turkish civil justice system in light of the ODR movement[3]. As a result, we hope that it would be possible to significantly improve access to justice in Turkish civil litigation.

I. ONLINE DISPUTE RESOLUTION

A. The Concept and Brief History Of ODR

As a new approach to dispute resolution, ODR emerged with the advent of the World Wide Web in the 1990s[4]. By connecting the world through a single medium, the internet provided new and important opportunities for cross-border commerce. Large e-commerce companies such as

1 https://www.uyap.gov.tr/ , accessed 27 June 2024. In the rest of the article, Turkish abbreviation of the National Judiciary Informatics System (In Turkish ***Ulusal Yargı Ağı Bilişim Sistemi/UYAP)*** will be used.

2 https://www.uyap.gov.tr/, accessed 27 June 2024. The language of this web page is the Turkish. It can be read in English with the help of Google Translete.

3 For *some similar basic proposals* in Turkish about UYAP see: Barış **Mıdık**, "Teknolojik Gelişmeler Işığında Hukuk Yargılamasını Yeniden Düşünmek: Otomasyondan Köklü Dönüşüme (Rethinking the Civil Justice System According to Technological Developments: From Automation to Transformation) (*Köklü Dönüşüm*)", Kocaeli Üniversitesi Hukuk Fakültesi Dergisi (Kocaeli University Law Faculty Journal), Issue 25/26, 2022, pp. 63-104.

4 Colin **Rule**, Online Dispute Resolution for Business, B2B, E-Commerce, Consumer, Employment, Insurance, and Other Commercial Conflicts (*ODR For Business*), Jossey-Bass, 2002, pp. 21; Barış **Mıdık**, Sorularla Çevrim İçi Uyuşmazlık Çözüm Yöntemleri *(Sorular*), On İki Levha Yayıncılık, First Edition, 2021, pp. 5; Seda **Özmumcu,** "Dünyada ve Ülkemizde Online Uyuşmazlık Çözümleri Bağlamında Online Tahkim ve Uygulamaları (Online Arbitration and its Applications in the Context of Online Dispute Resolutions in the World and Our Country)", (in Turkish), İstanbul Law Journal, Volume 78, Issue 2, 2020, pp. 431; Tolga **Akkaya**, Çevrimiçi Uyuşmazlık Çözüm Yöntemleri, in Dijital Çağda Medenî Yargı 2022'den Bakış, (editor: Muhammet Özekes) içinde, Adalet Yayınevi, Ankara, Aralık 2022, pp. 275-326.

eBay and Amazon began to operate globally. To ensure consumer confidence, e-commerce companies needed to resolve disputes quickly and inexpensively[5]. At this point, the traditional court system and alternative dispute resolution (ADR) methods were insufficient due to time and cost barriers[6]. It was therefore necessary to invent new dispute resolution methods suitable for use on the internet. Initially, face-to-face ADR methods were carried out on the internet[7]. This could be considered an early application of a type of ODR[8]. In the following years, the scope and types of ODR methods expanded[9]. In particular, large e-commerce companies have automated their dispute resolution systems as much as possible using the experience gained from early ODR practices[10]. In addition, innovative software designed specifically to facilitate dispute resolution processes, such as Cybersettle and Smartsettle, furthered the development of the ODR field[11]. These developments gave rise to the concept and practice of ODR.

Despite the emergence of ODR methods in the 1990s, the integration of ODR into the public justice system is a relatively new idea[12]. For example, the European Union Online Dispute Resolution platform only began operating in 2016[13]. The Civil Resolution Tribunal (CRT) of British Columbia, Canada, established well before the COVID-19 pandemic, is

5 Ethan **Katsh**, Orna Rabinovich-Einy, Digital Justice, Technology And The Internet Of Disputes, Oxford University Press, 2017, pp. 10.

6 **Rule,** ODR For Business, pp. 4-7; **Mıdık**, Sorular, pp. 3; **UNCITRAL** Technical Notes On Online Dispute Resolution, 2016, Article 8, https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/v1700382_english_technical_notes_on_odr.pdf accessed 5 July 2024.

7 **Akkaya**, pp. 308.

8 Pablo **Cortes**, Online Dispute Resolution for Consumers in the European Union (*ODR*), Routledge, 2011, pp. 53; Ignacio Oltra **Gras**, "Online Courts: Bridging the Gap Between Access and Justice", UCL Journal of Law and Jurisprudence, Volume 10, Issue 1, 2021, pp. 34.

9 **Gras**, pp. 34.

10 **Katsh/Rabinovich-Einy**, pp. 10-11 and pp. 34-36.

11 **Civil Justice Council**, Online Dispute Resolution Advisory Group, Online Dispute Resolution For Low Value Civil Claims, February 2015, pp. 15; https://www.smartsettle.com/, https://www.cybersettle.com/, accessed 5 July 2024.

12 To learn more about some examples of public/judicial ODR in Turkish, see: **Akkaya**, pp. 311-314.

13 For the EU ODR Platform see: https://ec.europa.eu/consumers/odr/main/?event=main.complaints.screeningphase, accessed 5 July 2024.

the first example of ODR integration into the public justice sector[14]. In the United Kingdom, "Online Dispute Resolution For Low Value Civil Claims" was published by the Civil Justice Council in February 2015[15]. However, it is not an exaggeration to say that without the pandemic, ODR would not have reached the current level of impact on the transformation of justice systems. Following the COVID-19 pandemic, public awareness of ODR has grown rapidly[16]. Today, the term ODR encompasses a wide range of online dispute resolution methods, including the digitization of adjudication processes[17]. Many judicial systems around the world are seeking to alleviate their chronic problems by taking advantage of digital

14 https://civilresolutionbc.ca/ accessed 5 July 2024; Shannon **Salter**, "Online Dispute Resolution and Justice System Integration: British Columbia's Civil Resolution Tribunal", Windsor Yearbook of Access to Justice, Issue 34, 2017, pp. 114; Dierle **Nunes**, A technological shift in procedural law (from automation to transformation): can legal procedure be adapted through technology?, Civil Procedure Review, Volume 11, No 3, 2020, pp. 27.

15 https://www.judiciary.uk/wp-content/uploads/2015/02/Online-Dispute-Resolution-Final-Web-Version1.pdf accessed 05 July 2024.

16 Michael **Fang**, "Has COVID-19 Turned "ODR" into the "Only Dispute Resolution" Available?", https://odr.info/files/china.pdf accessed 30 July 2024; Designing the Future of Dispute Resolution THE ODR POLICY PLAN FOR INDIA, **The NITI Aayog Expert Committee on ODR**, October 2021, pp. 16; It is stated that after the Covid 19 pandemic, it will be inevitable to think the ODR methods and the traditional dispute resolution system together in Turkey. See: **Özmumcu**, pp. 435; According to Öztek, the ODR methods will have an impact on the civil litigation system of Turkey in the future. See: Selçuk **Öztek**, "Hukuk Muhakemeleri Kanunu'nun Aleniyet İlkesine İlişkin 28 İnci Maddesi İle Ses ve Görüntü Nakledilmesi Yoluyla Veya Başka Yerde Duruşma İcrasına İlişkin 149 Uncu Maddesinde 7251 Sayılı Kanunla Yapılan Değişiklikler Hakkında Bazı Düşünceler/Some Thoughts on the Amendments Made by Law No. 7251 to Article 28 of the Code of Civil Procedure on the Principle of Publicity and Article 149 on the Conduct of Hearings by means of Audio and Video Transmission or in Another Place", (in Turkish), Adalet Dergisi, Issue 66, 2021/1, pp. 663.

17 **Cortes**, ODR, pp. 54; **Salter**, pp. 113; Also see: Ayelet **Sela**, "Streamlining Justice: How Online Courts Can Resolve The Challenges Of Pro Se Litigation", Cornell Journal of Law and Public Policy, Issue 26, 2016, pp. 331-388; *"... rather than exporting cases from the courts into the fledgling ODR industry, why not import techniques from ODR and make them part of the court system?.... If ODR held such great promise, why not embrace these technologies, with a view to widening and improving court service and, in turn, increasing confidence in the public courts and the rule of law.",* Richard **Susskind**, Online Courts And The Future Of Justice, Oxford University Press, 2019, pp. 97; Doron **Menashe**, "A Critical Analysis Of The Online Court", University of Pennsylvania Journal of International Law, Volume 39, No: 4, 2018, pp. 933.

technologies[18].

B. Examples of The Integration Of ODR Into The Public Justice System

In order to effectively use ODR methods in the Turkish civil procedure, it would be helpful to review some important examples of public ODR systems. In the following, we will discuss and summarize the public ODR projects implemented by the Province of British Columbia in Canada, the United Kingdom, the European Union and China. It should be emphasized that public ODR initiatives implemented to improve access to justice are not limited to these projects. However, a review of these examples would be sufficient to understand the main features, advantages and disadvantages of ODR. After the review, it will be possible to analyze the Turkish civil procedure in the light of the existing ODR systems.

1. The Civil Resolution Tribunal

The British Columbia Civil Resolution Tribunal (CRT) is not a formal civil court[19]. However, as an administrative tribunal, it deals primarily with civil disputes[20]. Notably, the CRT is the first national judicial body in the world to integrate ODR into its dispute resolution process[21]. Using

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18 For example see: **Civil Justice Council**, ONLINE DISPUTE RESOLUTION FOR LOW VALUE CIVIL CLAIMS Online Dispute Resolution Advisory Group, February 2015, pp. 3-34; Designing the Future of Dispute Resolution THE ODR POLICY PLAN FOR INDIA, **The NITI Aayog Expert Committee on ODR**, October 2021; Hiroki **Habuka**/Colin **Rule**, "The Promise and Potential of Online Dispute Resolution in Japan", International Journal on Online Dispute Resolution, Volume 4, Issue 2, 2017, pp. 74-90; **American Bar Association Center For İnnovation**, Online Dispute Resolution In The United States, September 2020, pp. 1-16; Guidelines of the Committee of Ministers of the **Council of Europe** on online dispute resolution mechanisms in civil and administrative court proceedings (*ODR Mechanisms In Court Proceedings*), 16 June 2021; **European Bank for Reconstruction and Development**, From digitisation to digital transformation: A case for online courts in commercial disputes? *(Online Courts In Commercial Disputes*), Draft Discussion Paper, October 2020; **Inter-American Development Bank**, Digital Technologies for Better Justice A Toolkit for Action, Discussion Paper No: IDB-DP-761, April 2020; **Gras**, pp. 24-51; For a detailed assessment of the proposed online court in England, see: **Menashe**, pp. 921-953.

19 https://civilresolutionbc.ca/ accessed 6 July 2024; E. Gökçe **Karabel**/Dilek **Aydemir**, "Medeni Usul Hukukunda Yargılamanın Hızlandırılması ve Adalete Erişim Hakkı Bakımından Çevrimiçi Yargılama ve Yapay Zekanın Kullanımı", Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi, C. 29, S. 1, 2023, pp. 536.

20 **Karabel/Aydemir**, pp. 536.

21 **Salter**, pp. 114.

a partially automated online platform and new approaches, the CRT seeks to provide affordable and accessible dispute resolution services. In doing so, it aims to improve access to justice for many civil disputes. By encouraging a collaborative approach between the parties, the CRT's primary goal is to resolve disputes amicably and remotely in the early stages of the process[22]. Within this framework, it divides the dispute resolution process into sequential steps and gives the parties control over the resolution and outcome of the dispute in the early stages.

To resolve disputes arising from the sharing of intimate images, motor vehicle accidents, small claims, strata property, corporations and cooperatives, parties can apply to the CRT through its dedicated webpage[23]. As a first step in the dispute resolution process, parties should use the Solution Explorer, which provides free legal information on various types of disputes. It can be used by both the claimant and the respondent without paying a fee. By using the Solution Explorer, potential litigants can develop a legal understanding of their disputes and possible solutions, remedies and options. At the end of the free legal information phase, the parties have the opportunity to negotiate directly online through CRT's confidential and secure platform. If the negotiation phase ends without a resolution, a third party, an independent tribunal member, will enter the stage and attempt to help the parties. Finally, the arbitrator will issue a binding decision on the dispute. During the dispute resolution process, the parties to the dispute and the third party will use the CRT platform and other electronic communication tools, unless there are exceptional situations where face-to-face interaction is necessary. The agreements reached by the parties may be enforced in a manner similar to the binding decisions of the members of the Tribunal[24].

The growing number of self-represented parties in Western countries is one of the most important driving forces behind the growing interest in ODR[25]. With the help of ODR methods and approaches it is expected that parties will be able to resolve many disputes (especially small claims) on their own[26]. In this context, one of the important objectives of the CRT is to provide parties with a dispute resolution service without the need for a

22 https://civilresolutionbc.ca/crt-process/ accessed 11 July 2024.
23 https://civilresolutionbc.ca/crt-process/ accessed 6 July 2024.
24 https://civilresolutionbc.ca/crt-process/ accessed 6 July 2024.
25 See generally: **Sela**, pp. 331-388.
26 **Sela**, pp. 345-346.

lawyer, thus improving access to justice[27]. In other words, instead of designing public dispute resolution forums for lawyers and public officials, CRT uses ODR to reach out to ordinary individuals. As Shannon Salter, the CRT's first chair, concisely put it, *"Put the public first.*[28]*"* In this regard, the CRT rules clearly explain that parties must obtain permission if they need a representative[29]. In addition, the CRT has the right to terminate representation at any time, depending on the circumstances of the case[30]. Considering these rules, together with the general design and operation of the CRT, it can be concluded that the CRT is an early and evolving example of the idea of helping unrepresented parties through ODR[31].

2. Online Money Civil Claim Pilot Project

The Online Money Civil Claim (OCMC) project[32] was launched in 2017, as part of the UK's wider digitization efforts[33]. In the framework of the report "Online Dispute Resolution For Low Value Civil Claims" published by the Civil Justice Council ODR Advisory Group in 2015, the OCMC aimed to implement the recommendations of the report in practice, step by step[34]. It was inspired by private and public ODR initiatives such as Cybersettle, Smartsettle, the Civil Resolution Tribunal, E-Bay and the Traffic Penalty Tribunal[35]. Subsequently, Lord Justice Briggs devoted significant attention to the proposed new online court model in his interim and final reports on the structure of the UK civil courts in December 2015

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27 **Salter,** pp. 122-125 and pp. 113.

28 **Salter**, pp. 113.

29 **Civil Resolution Tribunal**, Standard Rules, effective February 20, 2024, Rule 1.16 (1).

30 **Civil Resolution Tribunal**, Standard Rules, effective February 20, 2024, Rule 1.16 (10).

31 **Salter**, pp. 118-120.

32 https://www.gov.uk/make-court-claim-for-money/make-claim accessed 11 July 2024.

33 *"The Government is committed to investing more than £700 million to modernise courts and tribunals …"*, Transforming Our Justice System, By the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals, Ministry of Justice, pp. 3, https://www.gov.uk/government/publications/transforming-our-justice-system-joint-statement accessed 11 July 2024; **Karabel/Aydemir**, pp. 540.

34 https://www.judiciary.uk/related-offices-and-bodies/advisory-bodies/cjc/previous-work/disputeresolution/online-dispute-resolution/odr-advisory-group/, accessed 11 July 2024.

35 **Civil Justice Council**, Online Dispute Resolution For Low Value Civil Claims, pp. 11-16.

and July 2016, respectively[36]. As a pilot project, it was planned to be completed earlier, but during the process, the deadline of the project was delayed[37]. As of August 7, 2024, the OCMC website is still in operation.

The Civil Justice Council's ODR Report divides the civil dispute resolution process into three stages: Online Evaluation, Online Facilitation, and Online Judges[38]. The online evaluation stage is intended to inform the parties about their problems, possible solutions, and methods of redress[39]. By informing the parties early in the dispute resolution process, the goal is to reduce unnecessary claims and facilitate settlement[40]. In the online facilitation phase, automated online negotiation and mediation is conducted with the assistance of an expert third party in an effort to reach a settlement[41]. In order to enable the parties to reach a settlement, a very low court fee is provided for the second stage compared to the third stage. There is no legal obligation for the parties to settle the dispute at this stage, but it is envisaged that in many disputes a common solution will be reached as part of the mediation efforts. If the dispute is not resolved amicably, the online adjudication process will begin and the final, binding and enforceable decision will be issued by the judge[42]. Part-time and full-time judges will be assigned to the final stage of the online court and will perform their duties primarily over the Internet. In appropriate cases, the ad-

36 Lord Justice **Briggs** (Judiciary of England and Wales) Civil Courts Structure Review: Interim Report (*Interim Report*), December 2015, pp. 75; Lord Justice **Briggs** (Judiciary of England and Wales), Civil Courts Structure Review: Final Report (*Final Report*), July 2016, pp. 36.

37 "*The pilot is to run from 7th August 2017 to 1 October 2024.",* Practice Direction 51R – Online Civil Money Claims Pilot, https://www.justice.gov.uk/courts/procedure-rules/civil/rules/practice-direction-51r-online-court-pilot#1 accessed 11 July 2024.

38 **Civil Justice Council**, Online Dispute Resolution For Low Value Civil Claims, pp. 19-20; **Karabel/Aydemir**, pp. 540.

39 **Civil Justice Council**, Online Dispute Resolution For Low Value Civil Claims, pp. 19.

40 **Civil Justice Council**, Online Dispute Resolution For Low Value Civil Claims, pp. 19.

41 **Civil Justice Council**, Online Dispute Resolution For Low Value Civil Claims, pp. 20.

42 **Civil Justice Council**, Online Dispute Resolution For Low Value Civil Claims, pp. 20.

judication process will be conducted entirely online. The adjudication process may be conducted partially online if the nature of the dispute so requires[43].

In order to use the OCMC, the unrepresented claimant's claim should be for money only and the amount in dispute should not exceed £10,000. On the home page of the OCMC project, there are general explanations about how to file a claim, court fees, mediation, the enforcement phase, and so on. When claimants click on the "Make a money claim" button, the OCMC eligibility test opens. In this test, the OCMC attempts to assess, through simple questions and answers, whether or not the dispute is suitable for the system[44]. For example, if an unrepresented claimant indicates that their claim is for more than £10,000, the OCMC web page will issue a warning and redirect the claimant to the old MCOL system[45]. The interactive Q/A system follows the logic and example of the CRT Solution Explorer. It is designed to make the system accessible and manageable for non-lawyer users[46].

3. Developments in the Chinese Legal System

a. Internet Courts

China has been implementing important innovations regarding online

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43 **Civil Justice Council**, Online Dispute Resolution For Low Value Civil Claims, pp. 20; *"Only as a measure of last resort, if the case proves to be complex or an appeal filed, there is a face-to face trial."*, **Menashe**, pp. 926.

44 https://www1.moneyclaims.service.gov.uk/eligibility accessed 13 July 2024.

45 https://www1.moneyclaims.service.gov.uk/eligibility/not-eligible?reason=claim-value-over-100ni00 accessed 13 July 2024.

46 According to the latest data shared by the OCMC, from the starting point in 2017 to 27 February 2024, the OCMC dealt with 472,000 claims from unrepresented claimants . While 95% of claimants were satisfied with the online services of the OCMC, of the defen-dants only 66% rated OCMC in a same way . Almost half of the mediation sessions was successful during the year of 2023 . Moreover, during the same year an average duration for preparing a directions order was 9.2 weeks instead of 29 weeks in traditional paper ca-ses . Although its main aim is to simplify and accelerate dispute resolution system for un-represented parties, the OCMC has provided a forum for represented parties in certain conditions . It should be pointed out that the extent of the OCMC pilot project will be expanded in the near future by including claims higher than £25,000. See: Fact sheet: Online Civil Money Claims Updated 27 February 2024, https://www.gov.uk/government/publications/hmcts-reform-civil-fact-sheets/fact-sheet-online-civil-money-claims accessed 11 July 2024.

resolution of disputes[47]. Since 2017, three internet courts have been established in Hangzhou, Beijing and Guangzhou[48]. The jurisdiction of the internet courts mainly consists of disputes arising from private digital transactions. Disputes arising from contracts concluded through e-commerce platforms or the performance of online purchase contracts, online service contracts where all acts of formation and performance are to be completed online, financial credit contracts and low value contracts where all acts of formation and performance are to be completed online, and the attribution of copyright and related rights to works first presented on the Internet are some of these disputes falling within the jurisdiction of internet courts[49]. In the past, these disputes were resolved by the various first-instance courts in China. With the introduction of internet courts, they began to be resolved by the internet courts. Therefore, the internet courts in Hangzhou, Beijing and Guangzhou can be regarded as an experimental first-instance court in China[50].

Since the traditional court system is inefficient for most of the e-commerce disputes, the internet courts aim to ensure the quick and cheap resolution of e-commerce disputes through digital means[51]. Therefore, a de-

47 Chen **Xi**, "Asynchronous Online Courts: The Future of Courts?", Oregon Review of International Law, Volume 24, 2023, pp. 58; **Susskind**, pp. 170-172; Meirong **Guo**, "Internet court's challenges and future in China", Computer Law & Security Review 40 (2021), pp. 1-13.

48 **Xi**, pp. 58 and pp. 63; **Guo,** pp. 1-3.

49 For a complete list of the jurisdiction of the Internet courts, see: Article 2 of The Supreme People's Court's Provisions on Several Issues Related to Trial of Cases by the Internet Courts, https://www.chinalawtranslate.com/en/the-supreme-peoples-courts-provisions-on-several-issues-related-to-trial-of-cases-by-the-internet-courts/ accessed 26 March 2025.

50 See: *"Unlike the CRT or the MCOL, which primarily deal with small claims, the Hangzhou Internet Court has jurisdiction over nine types of cases, and all are closely related to the Internet. It has actual jurisdiction over both civil and administrative cases, and the value restriction of a dispute is the same as other primary courts in China.",* **Xi**, pp. 59; *"Internet courts are by no means online versions of conventional courts; online adjudication represents a completely new type of adjudication mechanism.",* **Guo**, pp. 4.

51 It was explained that the internet courts are successful in achieving their goals. See: Guodong Du, Beijing Internet Court's First Year at a Glance: Inside China's Internet Courts Series -05, 19 October 2019, https://www.chinajusticeobserver.com/a/beijing-internet-courts-first-year-at-a-glance accessed 31 March 2025; *"As of 30 April 2018, the Hangzhou Internet Court handled a total of 7,771 Internet-related disputes and closed 4,798 cases. The average time of a trial was 25 minutes, and the average trial*

fault option in the internet courts is to carry out all legal proceedings digitally[52]. Filing of a case, exchange of petitions and evidence, mediation meetings, hearings, announcement of verdicts are performed through internet litigation platform[53]. However, based on the request of parties or a necessity, some judicial proceedings can be conducted face to face in the courtroom[54]. For example, if there is a real need to verify the identity of the parties, the court may hold a physical hearing[55].

The internet litigation platform plays an important role in the fully online functioning of internet courts. The internet litigation platform is a digital platform created by courts for the purpose of conducting court proceedings digitally[56]. Courts, parties, and other litigants use this platform to perform judicial proceedings during litigation process. The parties concerned will obtain case information and related case materials and perform judicial proceedings through the internet litigation platform[57]. Accordingly, after the lawsuit has been initiated, the internet court shall notify the parties concerned for to realize the identification verification through the internet litigation platform. In this notification, the court may use any available communication method depending on the information provided by the plaintiff such as phone call and fax[58].

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period was 46 days, which saved between a quarter and three-fifths of the time compared with the traditional trial mode. A total of 98.5% of the cases are close in the first instance without an appeal. The amount of disputed loan is not more than 500,000 yuan (El = 8.6 yuan). Thanks to legal technology, all of the cases were litigated under just six judges.", Fang **Xuhui**, "Recent ODR Developments in China", International Journal of Online Dispute Resolution, Issue 2, 2017, pp. 34.

52 See: "*In brief, the basic principle of online court is that the whole process is online*.", **Guo**, pp. 2.

53 Article 1 of The Supreme People's Court's Provisions on Several Issues Related to Trial of Cases by the Internet Courts; **Mıdık**, Sorular, pp. 75.

54 Article 1/2 of The Supreme People's Court's Provisions on Several Issues Related to Trial of Cases by the Internet Courts.

55 Typically, technological methods are used to verify identity, such as comparing identity documents. See: Article 6 of The Supreme People's Court's Provisions on Several Issues Related to Trial of Cases by the Internet Courts.

56 Article 5 of The Supreme People's Court's Provisions on Several Issues Related to Trial of Cases by the Internet Courts.

57 Article 8/2 of The Supreme People's Court's Provisions on Several Issues Related to Trial of Cases by the Internet Courts.

58 See: Article 8/1 of The Supreme People's Court's Provisions on Several Issues Related to Trial of Cases by the Internet Courts: "After Internet Courts accept a case, they may use **cell phone numbers, faxes, e-mail addresses, instant messenger accounts, and so forth** as provided by the plaintiff, to notify the defendant or third

Another noteworthy regulation concerning the operation of Internet courts is related to the service of documents and evidence materials. Upon the consent of the parties, the internet courts shall use electronic means for the service of documents and evidence materials. *" China Trial Process Information Disclosure Network, the litigation platform, mobile phone text messages, fax, e-mail, and instant messenger accounts"* as an example of possible electronic means[59]. On the other hand, where there is no clear consent of the parties, but they *" ... accept already completed electronic service through confirming receipt or taking corresponding procedural action, and do not clearly express disagreement with electronic service..."* it has been deemed as a legally valid consent[60]. The judge could also serve the judgment electronically, after obtaining the consent of the parties and informing them of their rights and obligations[61].

b. Online Litigation Rules

As explained above, the internet courts have been regarded as a testing ground for important innovations in China's litigation system. Therefore, based on the experience of the internet courts, more far-reaching steps have been taken in the Chinese legal system[62]. In this context, the Online Litigation Rules of the People's Courts (OLR) were promulgated in 2021[63]. OLR is a general law that regulates online dispute resolution, mainly for the civil and administrative judicial system[64]. According to Article 3 of the OLR, in civil and administrative cases, the courts should consider whether the case is suitable for online litigation. Online litigation is also

parties to conduct identify verification related to the case through the litigation platform."

59 Article 15/1 of The Supreme People's Court's Provisions on Several Issues Related to Trial of Cases by the Internet Courts; The remote communication tools are also used for notification in the Civil Resolution Tribunal. See: **Karabel/Aydemir**, pp. 537.

60 Article 15/2 of The Supreme People's Court's Provisions on Several Issues Related to Trial of Cases by the Internet Courts.

61 Article 15/3 of The Supreme People's Court's Provisions on Several Issues Related to Trial of Cases by the Internet Courts.

62 **Xi**, pp. 63-64; Wei **Gao**/Lu **Xu**, Online Courts in China: A New Hybrid Model for Access to Justice, ResearchGate Website, pp. 12-13, https://www.researchgate.net/publication/377272212_Online_Courts_in_China_A_New_Hybrid_Model_for_Access_to_Justice accessed 31 March 2025.

63 **Xi**, pp. 63; **Gao/Xu**, pp. 12.

64 See: https://english.court.gov.cn/pdf/OnlineLitigationRulesofthePeople'sCourts.docx accessed 31 March 2025.

partially applicable to criminal cases[65]. However, the main purpose of the Law is to regulate the online resolution of civil and administrative disputes[66].

There are five basic principles governing the conduct of online litigation by the courts: The principle of impartiality and efficiency, the principle of legality and voluntariness, the principle of protecting the rights of the parties, the principle of providing convenience to the people, the principle of security and reliability (Article 2 of OLR). Among these principles, the principle of voluntariness and the principle of providing convenience to the people are particularly noteworthy. As a requirement of the principle of voluntariness, the parties and other relevant participants in a case have the right to choose between the online and offline litigation methods. The court shall not apply online litigation in whole or in part without the consent of the parties or other relevant participants (Article 2/2 of the OLR)[67]. The principle of convenience to the people means that the courts should reduce the cost of litigation and improve the efficiency of dispute resolution by implementing and promoting information technology. In this context, special attention must be paid to members of vulnerable groups (minors, the elderly, the disabled, etc.). In order to facilitate the litigation process for the members of vulnerable groups, the court must provide more support, guidance and convenience for them (Article 2/4 of the OLR).

According to Article 1 of the OLR, the Chinese courts, the parties and other relevant participants may use the electronic litigation platform during the litigation[68]. The electronic litigation platform may be used for the complete online resolution of disputes, or only for partial electronic conduct. In this context, the parties may carry out procedural steps such as "*case filing, mediation, exchange of evidence, inquiry, trial and service"*

65 According to Article 3/2 of the OLR, the online litigation may be applied in the criminal cases "… applicable to expedited procedure, commutation and parole cases, and other criminal cases that are not appropriate to be tried offline because of special reasons".

66 See: Article 3 of the OLR; Also see: *"Instead of any gradual expansion, online courts now comprehensively encapsulate all civil and administrative litigation in all 3,502 courts of China.",* **Gao/Xu**, pp. 30.

67 *"The most notable distinction and innovation of the Chinese online courts approach is the simultaneous presentation of online and offline options as a free choice for litigants…",* **Gao/Xu**, pp. 14.

68 The parties must register on the litigation platform with their real names. The identity of the parties should be verified by using the telephone number, ID card number, passport number, and unified social credit code (Article 7 of the OLR).

completely in digital medium or they may choose online or offline method in each step (Article 1/1 of the OLR)[69]. However, the request of the parties is not a sufficient reason for the application of online litigation. In order to determine the suitability of the case for online litigation, the courts will take into account the conditions of the case, the eagerness of the parties, the technical conditions and other similar factors (Article 3 of the OLR).

As explained previously, online litigation may be applied in whole or in part. Therefore, some parts of the litigation may be conducted electronically, while other parts may be conducted in the courtroom. If the consent of the parties has been obtained for a specific judicial proceeding, the court cannot automatically extend the scope of online litigation for the remainder of the judicial process (Article 4/4 of the OLR). Similarly, if the consent of one party could not be obtained, the online litigation will be applied only to the agreed party. In this case, one party shall conduct the litigation process digitally, while the other party shall conduct it in the classical way (Article 4/4 of the OLR)[70].

When the plaintiff files a lawsuit on the electronic litigation platform, the court shall evaluate whether the lawsuit meets the requirements for online litigation. If the result of the assessment is positive, the court shall notify the defendant and other related parties of the lawsuit (Article 9-10 of the OLR). Through the notification, the court shall seek consent for online litigation. If the related party has given consent, he/she shall enter the litigation platform and verify his/her identity within three days. If the parties have consented, they shall participate in the judicial proceedings through the litigation platform. The information on the progress of the case, the receipt and submission of the case materials and the performance of other procedural acts shall be realized through the platform (Article 10/1 of the OLR).

In order to facilitate the workflow during the online litigation process, the OLR accepts the digital information submitted by the parties as legally valid, unless the other party objects to the authenticity of the digital information based on reasonable grounds. If an objection is raised, the court must order the parties to present the original documents or objects[71]. Therefore, unless an objection is raised, the parties don't have to present the

69 **Gao/Xu**, pp. 17-18.

70 See: *"To give a simple example, if the claimant of a case prefers to have an online court hearing but the defendant wants to appear in person, the outcome will be a hybrid court hearing… "*, **Gao/Xu**, pp. 18.

71 See: Article 12/1 of the OLR and Article 13/1 of the OLR.

original documents in the litigation[72]. As this rule reduces the paper-based workflow during litigation, it is significant both in terms of moving case management from the physical world to the digital world and in terms of reducing the cost of litigation. In this regard, in order to submit a petition to the court, the parties may directly use online sections and forms in the litigation platform or convert paper documents into electronic format[73]. The parties may also transfer the online information from the other digital medium linked to the litigation platform[74]. Litigation documents (*"statement of claim, statement of defense, statement of counterclaim*", etc.) may be submitted to the court in any of the ways described (Article 11 of the OLR).

In the civil and administrative cases, where the online litigation is applied, the court may also realize the trial through the electronic litigation platform (by audiovisual transmission). The courts will decide on the suitability of the case for online hearing by evaluating all related factors, including the eagerness of the parties, conditions of the litigation, social impact of the case and the technical circumstances (Article 21 of the OLR). However, in some cases, the hearing cannot be held remotely. For example, if all the parties involved object to the online hearing, or one of the parties objects based on legitimate reasons, the offline hearing must be conducted. Similarly, in cases that are so complex in factual and legal dimensions that the online court hearing is not sufficient for the proper resolution of the dispute, the hearings shall be conducted offline[75]. Finally, it should be noted that, except for some limited situations, the online hearings may be observed by the public[76].

4. European Union Online Dispute Resolution Platform

In order to provide easy, fast and cheap out-of-court dispute resolution service to consumers in the EU, the European Union ODR Platform was

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72 See: Article 12/1 of the OLR and Article 13/1 of the OLR.

73 See: Article 11/1 and Article 11/2 of the OLR.

74 See: "If the litigation materials are in the form of electronic data and are preserved in another platform which has been connected to the litigation platform, the parties may submit such data to the litigation platform directly.", Article 11/2 of the OLR.

75 In any of the circumstances listed in Article 21 of the OLR, the online trial does not apply.

76 See: "For a case involving national security, State secrets or personal privacy, the court trial shall not be publicized on the Internet. For civil cases involving the minor, trade secrets or divorce, if the parties concerned apply for non-public trial, the online trial may not be publicized on the Internet.", Article 27/2 of the OLR.

established in February 2016[77]. Legally, it was built upon the basis of the *EU Regulation on consumer ODR* which was in effect from 2013[78]. Consumers who have dispute with online traders in the EU can apply to the ODR Platform to resolve their disputes[79]. Despite the fact that the ODR Portal is not a part of the EU judicial system, as it provides an alternative forum for online consumer disputes across the EU, it may be regarded as an important public dispute resolution system[80]. For this reason, it is an example of a significant international development which reflects the awareness level related to the integration of the ODR into the public justice systems[81]. As a country having close economic and legal relationships with EU, the ODR Portal provides some useful insights for Turkey in terms of effectively benefiting from ODR in the judicial system.

According to the EU Regulation on consumer ODR, consumers who live in one of the EU countries and make online transactions from his own country or from another EU country can use the ODR Platform in all official languages of the Union[82]. It should be noted that disputes arising from face-to-face transactions are excluded from the scope of the EU ODR Portal[83]. Furthermore, there is no legal obligation for consumers to apply to

77 https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0524 accessed 16 July 2024.

78 Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC (Regulation on consumer ODR), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R0524 accessed 16 July 2024.

79 See: Article 1 and 2 of the EU Regulation on consumer ODR.

80 For more detailed information on the legal basis and the functioning of the EU ODR Portal, see: Emma van **Gelder,** "The EU Approach to Consumer ODR", International Journal of Online Dispute Resolution 2019 (6) 2, pp. 219-226; Amy J. **Schmitz**, "Expanding Access to Remedies through E-Court Initiatives", Buffalo Law Review, Volume 67 Number 1, 1-1-2019, pp. 11-12 and pp. 137-140; Xandra E. **Kramer**, Access to Justice and Technology: Transforming the Face of Cross-Border Civil litigation and Adjudication in the EU, *(in: Karim Benyekhlef, Jane Bailey, Jacquelyn Burkell and Fabien Gelinas (Ed), eAccess to Justice (University of Ottawa Press, 2016),* pp. 361-362.

81 *"It is to be hoped that the ODR platform will function well and that potential users will find their way to it in order to have an added value to the existing plethora of national ADR systems and—limited—ODR mechanisms, and to the traditional or partially online court procedures."*, **Kramer**, pp. 362.

82 See: Article 1 and 2 of the EU Regulation on consumer ODR; Para. 11, in Preamble.

83 See: Article 1, 2 and 3 of the EU Regulation on consumer ODR, Para. 15 in Preamble; See: *" ... the platform should allow users to submit a complaint even when they bought*

the EU ODR Platform, thus they can choose to either use the ODR platform or file a lawsuit at court[84]. However, traders have to put their e-mail address and the link of ODR Platform in their web site in order to inform consumers[85] but at the same time, paradoxically, when consumers initiated a claim in the system, traders don't have to participate in the ODR process[86].

The EU ODR Portal has an interactive web site comprising necessary information about online sales, services and out-of-court resolution methods[87]. Consumers who have claims against traders can apply to the ODR Portal by completing an electronic complaint form and submitting it to the ODR Portal[88]. Following the submission of the claim electronically, parties have the opportunity for direct negotiation by sending documents to each other related to the dispute via the ODR Portal[89]. Besides that, by choosing an ADR body together they may want to benefit from dispute resolution services of the impartial and independent ADR institutions. Parties and the third party ADR provider can use the electronic case management system of the ODR Portal. Neither parties nor the ADR entity shall pay for the electronic case management system of the ODR Portal; it is a system that is free of charge[90]. However, the third party ADR provider may want a fee in return for their dispute resolution service. As each ADR body may set their own prices, there is no common pre-determined fee for the ADR services[91]. As noted earlier, traders are free to choose whether they will participate in the process or not, if their participation doesn't exist then there is no legal or financial sanction in response. If parties have

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something offline at least for domestic disputes.", Serkan **Kaya,** "Access To Justice For Consumers In Turkey: The Need For Enhancing Consumer Dispute Resolution Through Online Dispute Resolution", Ankara Hacı Bayram Veli Üniversitesi Hukuk Fakültesi Dergisi, Volume 26, Issue 1, 2022, pp. 242.

84 See: Para. 26, in Preamble.

85 See: Para. 30, in Preamble; For example, necessary information on the EU ODR Platform has placed by the Microsoft in their website. See: https://www.microsoft.com/en-us/legal/arbitration/eu-odr accessed 07 August 2024.

86 **Kaya**, pp. 237.

87 Article 5 of the EU Regulation on consumer ODR; Para. 15 in Preamble.

88 Para. 15 in Preamble; Article 5 of the EU Regulation on consumer ODR.

89 Para. 15 in Preamble.

90 Article 5 of the EU Regulation on consumer ODR; Para. 15 in Preamble; But during the dispute resolution process, ADR body is free whether to use the electronic case management system or not (See: Para. 15 in Preamble); **Kramer**, pp. 361.

91 **Kaya,** pp. 236; *"The E.U. ADR Directive requires that procedures should "preferably be free of charge" or limited to only a nominal fee for the consumers."*, **Schmitz**, pp. 138.

agreed on an ADR entity in order to resolve the dispute, the ADR body must end the process by a maximum of 90 days after the referral of the dispute to them.

According to the EU Report dated 17 October 2023, the effect of the EU ODR Portal has been limited across the EU[92]. Since the beginning, the usage level of the Portal has not changed meaningfully. Traders especially do not participate in the dispute resolution process. The Report explains that the main reason for the failure of the Portal is speedy development of the online marketplaces and their effective electronic complaint-handling systems. Most consumers resolve their disputes directly with these complaint-handling systems. Based on this, it was suggested that the EU ODR Portal should not be maintained in the future since it leads to significant cost for Union[93]. In this context, as of 19 July 2025 the EU ODR portal will be discontinued[94].

Although not mentioned in the report, the voluntary nature of the EU ODR Platform may be another reason for the parties' lack of interest in the system[95]. In fact, Shannon Salter, the first chair of the CRT, had been made a similar point in relation to the CRT of British Columbia[96]. The CRT was originally intended to be a voluntary tribunal. However, legislation was enacted to make it mandatory to apply to the CRT for cases under its jurisdiction[97]. Similarly, Kaya suggested that in order for ODR to be successfully implemented in Turkey, the use of the system must be compulsory[98]. In the same vein, it can be argued that the use of the EU ODR portal

92 Report on the application of Directive 2013/11/EU of the European Parliament and of the Council on alternative dispute resolution for consumer disputes and Regulation (EU) No 524/2013 of the European Parliament and of the Council on online dispute resolution for consumer disputes, 17 October 2023, pp. 7-10.

93 **EU**, Report on alternative dispute resolution for consumer disputes and online dispute resolution for consumer disputes, pp. 7-10.

94 See: https://ec.europa.eu/consumers/odr/main/?event=main.home2.show accessed 03 April 2025.

95 See: **Kaya**, pp. 251; *"Voluntary, consensual dispute resolution was never very popular, as emerges from the investigation into the use of eKantonrechter."*, Dory **Reiling**, "Beyond Court Digitalization With Online Dispute Resolution", International Journal for Court Administration, Volume 8, No 2, 2017, pp. 5.

96 **Salter**, pp. 118.

97 **Salter**, pp. 118; *"Research by the Civil Resolution Tribunal in British Columbia and by other proposed and functioning ODR systems has shown that participation in an ODR program suffers when it is not mandatory.",* Melisse **Stiglich** (Project Staff), Utah Online Dispute Resolution Pilot Project (Technical Assistance Grant: Final Report), December 2017, pp. 10.

98 **Kaya**, pp. 251.

may be limited due to the exclusion of offline consumer disputes[99]. On the other hand, the removal of the EU ODR portal would not diminish its value as an early example of a public ODR system, as ODR can now be used for the offline and high-value disputes.

II. AN OVERVIEW OF THE TURKISH CIVIL LITIGATION SYSTEM IN TERMS OF DIGITALIZATION

A. Overview of the UYAP

UYAP is the electronic filing and case management system of the Turkish judiciary. The first design efforts for the UYAP project started in 1999[100]. After finishing local pilot projects and resolving technical problems that arose during the early period, the UYAP began to be used nationwide in 2008[101]. It connects all judicial institutions in Turkey in the same digital medium. The central and provincial organisation of the Ministry of Justice, administrative courts, civil courts and criminal courts use the UYAP system in their daily and routine work. Today, thanks to the UYAP, it is possible to file a lawsuit, view one's case file, pay court fees, send a petition and evidence to the court electronically. All the proceedings of the parties and the decisions of the courts are stored in the system[102].

Article 445 of CCP defines UYAP as *"... an information system created for the purpose of performing judicial services electronically"*[103]. When judicial proceedings are conducted electronically, data are recorded and stored using the UYAP. According to Art 445/2 of CCP, *"Minutes and documents required to be prepared physically within the scope of this*

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99 *"... in reality there is still a considerable number of consumers involved in offline contracts, including cross-border offline contracts. It raises the question whether the scope of the ODR platform can be broadened to include offline sales or services contract.",* **Gelder,** pp. 226.

100 **Ministry Of Justice**, UYAP Informatics System, January 2021, Printing House of Ankara Open Penal Execution Institution, Ankara, pp. 23-25.

101 **Ministry Of Justice**, pp. 23-25; Emre **Kıyak**, "Büyük Veri ve Yapay Zekâ Teknolojileri İle Adım Adım Zeki UYAP (Ulusal Yargı Ağı Projesi) Ekosistemine Doğru", Dokuz Eylül Üniversitesi Hukuk Fakültesi Dergisi, C. 22, S. 1, 2020, pp. 82.

102 General information about the UYAP can be found at: https://uyap.gov.tr/Genel-Bilgi accessed 03 April 2025.

103 For information regarding the use of UYAP in the different courts, see: Article 38/A of the Criminal Procedure Law No. 5271, Article 8/a of the Enforcement and Bankruptcy Law No. 2004, Article 31 of the Administrative Procedure Law No. 2577; For the view that a separate code should be regulated on UYAP, see: **Karabel/Aydemir**, pp. 563.

law may be prepared and sent electronically with a secure electronic signature. Minutes and documents created with a secure electronic signature shall not be sent physically and a copy of the document shall not be required". Also, *"In cases where it is necessary to make a physical copy from the electronic environment, the minutes or documents shall be signed and sealed by the judge or the clerk, stating that the minutes or documents are the same as the original"* (Art 445/3). Normally, the time limit for civil proceedings in the courtroom ends at the end of working hours. Contrary to the established rule, *"The time limit for transactions carried out via electronic media shall expire at the end of the day"* (Art 445/3).

As can be seen from the wording of Art. 445/2 and Art. 445/3, the parties are not obliged to use the UYAP in civil cases. They can file a case in court or through the UYAP, depending on their preferences or the means available to them. In order to file a case or send a petition to the civil courts, it is mandatory to have a secure electronic signature[104]. Article 5 of the Electronic Signature Code explains that the secure electronic signature has the same legal effect as a hand-written signature. However, for judges and other court personnel, the use of the UYAP is the default option, with the exception of certain specific situations[105]. In this context, judicial documents (minutes, decisions, etc.) are created in the electronic medium provided by the UYAP[106].

The UYAP system has different interfaces for different user groups, such as UYAP Lawyer Portal, UYAP Citizen Portal, UYAP Mediator Portal, UYAP Expert Portal[107]. In order to understand the general functioning of the UYAP system, it would be beneficial to have a brief look at some of these interfaces[108].

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104 See: Article 445 of Code of Civil Procedure No. 6100, promulgated in 2011, https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=6100&MevzuatTur=1&MevzuatTertip=5 accessed 17 July 2024.

105 See: Article 5/1 and Article 5/7 of the Regulation, published in the Official Gazette of August 06, 2015, number 29437, https://mevzuat.gov.tr/mevzuat?MevzuatNo=23615&MevzuatTur=7&MevzuatTertip=5 accessed 03 April 2025.

106 See: Article 5/1 and Article 5/7 of the Regulation, published in the Official Gazette of August 06, 2015, number 29437, https://mevzuat.gov.tr/mevzuat?MevzuatNo=23615&MevzuatTur=7&MevzuatTertip=5 accessed 03 April 2025.

107 **Kıyak**, pp. 83.

108 It is worth noting that the UYAP project has been awarded many prizes from both national and international institutions. A total of twenty four awards are listed by the Turkish Ministry of Justice on the official web page of UYAP (see: https://www.uyap.gov.tr/UYAP-Odulleri accessed 12 July 2024).

1. UYAP Citizen Portal

The UYAP Citizen Portal is an interface of the UYAP project designed for use by ordinary individuals. Individuals can view their case files in the UYAP Citizen Portal, regardless of the type of case or the stage of adjudication. In this way, it is possible to know the status and content of the adjudication process without visiting the court building. Court fees can also be calculated and paid digitally through the UYAP Citizen Portal. Parties can update their communication and address information in the system. As can be easily understood, this kind of work is relatively simple and therefore it is possible to perform these tasks only with the e-government password.

Apart from simple actions such as viewing case files or calculating court fees, filing a case or sending a petition to the court requires a secure electronic signature in the UYAP. Without a secure electronic signature, it is not possible to file a case or send any other type of petition (objection to expert opinion, reply, etc.) to the court electronically. In other words, the e-government password only ensures that the parties can passively access the electronic archives of the courts[109]. If a person needs to actively participate in civil court proceedings, he or she must use a secure electronic signature. Otherwise, they have to file a case or submit their petitions to the court in person.

2. UYAP Lawyer Portal

Similar to the UYAP Citizen Portal, the UYAP Lawyer Portal allows lawyers to conduct legal proceedings on behalf of their clients. Viewing their clients' case files, applying for mediation, filing lawsuits, sending petitions to the court, calculating and paying court fees, initiating enforcement proceedings against debtors, sending evidence to the courts, etc. can be done digitally. Recently, thanks to the efforts of the Ministry of Justice during the Covid 19 pandemic, it has even become possible for lawyers to participate in court hearings via videoconferencing technology. In order to access the UYAP Lawyer Portal and conduct legal proceedings on behalf of their clients through the system, lawyers must have a secure electronic signature. In practice, the UYAP Lawyer Portal has been widely used by lawyers due to the convenience it offers to the profession.

109 https://vatandas.uyap.gov.tr/main/vatandas.jsp accessed 20 April 2025.

3. UYAP Expert Portal

UYAP Expert Portal is specially designed for the use of experts assigned by the courts[110]. In Turkish civil procedural law, the court can appoint an expert to solve technical issues of the case that cannot be solved with the general or legal information of the judges (Art. 266 of CCP). If the expert is assigned to the case, he/she prepares a written report based on the judge's instructions and the case file. Today, experts can access case files, prepare reports and submit them to the court electronically through the UYAP Expert Portal.

4. E-Hearing System

Since 2011, parties can theoretically participate in civil court hearings via videoconferencing technology, thanks to a clear provision in Article 149 of the CCP numbered 6100[111]. However, the parties had to agree on the use of e-hearing in accordance with Article 149[112]. With the Covid-19 pandemic, Article 149 was amended to allow remote participation in civil court hearings at the request of only one party[113]. After the amendment, pilot projects were launched and the method of e-hearing was tested in some pre-determined courts[114]. As of March 2025, the e-hearing option is

110 https://bilirkisi.uyap.gov.tr/giris accessed 03 April 2025.

111 For more information on e-hearing see: Aziz Serkan **Arslan**, Hukuk Yargılamasında Videokonferans Yöntemi (E-Duruşma), On İki Levha Yayınevi, 1. Edition, September 2023; Seda **Gayretli Aydın**, "Medenî Yargılama Hukukunda Ses ve Görüntü Nakli Yoluyla Duruşmaya Katılma", D.E.Ü. Hukuk Fakültesi Dergisi, Prof. Dr. Şeref ERTAŞ'a Armağan, C. 19, Özel Sayı, pp. 2101-2126; Serdar **Kale,** "Ses ve Görüntünün Nakledilmesi Yoluyla Duruşmanın İcrası (HMK md. 149)", Medenî Usûl ve İcra İflas Hukuku Dergisi, S. 25, 2013, pp. 141-155; Banu **Ulusan**, "Medeni Yargılama Hukukunda Tanığın E-Duruşma İle Dinlenilmesi ve Kişisel Verilerin Korunması: Alman Hukukuyla Karşılaştırmalı Bir Değerlendirme", TBB Dergisi, 2022 (163), pp. 163-170; With regard to the relationship between open justice and the electronic hearing, see: Nedim **Meriç**/Tuğçe Arslanpınar **Tat**, Elektronik Ortamda Duruşma ve Diğer Yargı Faaliyetlerinin İcrası, in *Dijital Çağda Medenî Yargı 2022'den Bakış (editor: Muhammet Özekes)*, Adalet Yayınevi, Ankara, Aralık 2022, pp. 211-214.

112 **Gayretli Aydın**, pp. 2114; **Kale**, pp. 146.

113 See: Article 17 of the Amending Code of Civil Procedure and Other Laws No. 7251; Also see: **Karabel/Aydemir**, pp. 563.

114 https://bigm.adalet.gov.tr/Home/SayfaDetay/e-durusma-sistemi17062020040538 accessed 25 March 2025. During the implementation of e-hearing in the civil litigation system, the Ministry of Justice has launched a new website called "E-Hearing Information". See: https://edurusmabilgi.adalet.gov.tr/ accessed 25 March 2025.

available in 5185 civil courts in Turkey[115].

The attorneys may participate in the e-hearing from their offices, from the section designated for this purpose by the bar association, and from the place designated for this purpose in the courthouse. If the lawyers will participate to the e-hearing from other places, this place must be *"... free from any kind of influence and direction, and must be of a quality that allows to observe the facial expressions, body movements, attitudes and behaviors of the person concerned, to understand his/her feelings and to listen clearly to what he/she says"*[116]. Parties may participate in e-hearings with their attorneys in the law office or other locations from which the attorney participates. If the parties (self-represented or not) participate in the hearing remotely, they must use *"... the place designated for that purpose in the courthouse or penal enforcement institutions where they are located"*[117]. For example, parties may not attend hearings remotely from their homes, while attorneys may attend if the conditions of the home meet the above criteria.

B. Consumer Information System

The UYAP is not the only digital platform in the Turkish public dispute resolution system. Another important digital tool is the Consumer Information System, which provides electronic access to consumer arbitration boards. In Turkey, consumer arbitration boards deal with consumer disputes below certain monetary limits[118]. In 2025, the monetary limit of the consumer arbitration boards is set at 149,000 Turkish Liras[119]. It should also be noted that consumer arbitration boards are not technically courts and they operate under the Ministry of Customs and Trade, not the Ministry of Justice[120]. However, their decisions are binding and enforceable[121].

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115 https://edurusmabilgi.adalet.gov.tr/e-durusma-81-ilde-5185-hukuk-mahkemesinde-uygulaniyor accessed 25 March 2025.

116 See: Article 11/5 of the Regulation on the Conduct of Hearings By Means of Audio and Video Transmission In Civil Trials.

117 See: Article 11/2 of the Regulation on the Conduct of Hearings By Means of Audio and Video Transmission In Civil Trials.

118 Consumer arbitration boards are regulated primarily in the articles 66-72 of the Code On Protection Of Consumer (See: https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=6502&MevzuatTur=1&MevzuatTertip=5 accessed 17 July 2024).

119 https://www.resmigazete.gov.tr/eskiler/2024/12/20241220-2.htm accessed 03 April 2025.

120 See: Article 3 and Article 85 of the Code On Protection Of Consumer.

121 See: Article 70 of the Code On Protection Of Consumer.

Turkish consumers can file a claim with the consumer arbitration boards physically or electronically[122]. For electronic filing, the Consumer Information System must be used[123]. The structure of the Consumer Information System is different from that of the UYAP. It provides legal information and technical explanations for consumers. For example, if consumers fill in the claim box with the amount above the jurisdictional limit of the consumer arbitration boards, the system gives a warning. Thus, due to the design of the system, it is not allowed to apply to the consumer arbitration boards for consumer disputes above the predetermined monetary limit. More interestingly, when complainants click on the "Claim Type" box, a pop-up menu opens and the claim types lines. This menu includes some specific types of claims related to consumer law. In addition, the "Frequently Asked Questions" section provides many short explanations about the dispute resolution process of the consumer arbitration boards.

Compared to the UYAP system, the Consumer Information System provides a relatively user-friendly dispute resolution process. Thanks to the technical arrangements and legal explanations, most of the complaint process can be completed by consumers without legal assistance. In this respect, the Consumer Information System is not only a digital tool providing online access to consumer arbitration boards. Rather, it offers additional benefits to consumers who wish to represent themselves before the consumer arbitration board.

Contrary to the UYAP system, a secure electronic signature is not required to apply to the consumer arbitration boards. By entering the Consumer Information System through the only e-government gateway, consumers can start and complete their application[124]. When the consumer arbitration boards started to operate in 2010, consumers had to obtain a secure electronic signature or mobile signature in order to complete their application in the system. Otherwise, they had to print the application form prepared in the Consumer Information System and sign it by hand. Afterwards, the signed complaint form had to be physically submitted to the

122 See: Articles 11/1 and 11/4 of the Regulation On Consumer Arbitration Boards.

123 See: Articles 11/1 and 11/4 of the Regulation On Consumer Arbitration Boards.

124 Although at first glance this may seem like a small difference, it is an important advantage for consumers, given the difficulty for ordinary Turkish citizens to obtain and use a secure electronic signature.

consumer arbitration board[125]. Since 2024, as part of the efforts to facilitate access to justice for consumers, the secure electronic signature shall no longer be a requirement for consumer complaints[126].

C. The digitalization in the field of ADR

Since the middle of the twentieth century, alternative dispute resolution (ADR) methods have been influencing judicial systems around the world. Many legal systems systematically promote the wider use of ADR[127]. In contrast to most justice systems in the world, ADR methods have started to be implemented widely in our country for the last ten years[128]. In order to reduce the heavy workload of the courts and to strengthen the settlement culture, the Turkish government has made it mandatory to apply mediation before filing a lawsuit in many disputes since 2018[129]. Currently, it is mandatory to apply mediation in labour disputes, landlord-tenant disputes, consumer disputes, commercial disputes and disputes arising from condominium ownership[130]. The Turkish government aimed to raise awareness about the availability of mediation in the society, thanks to these mandatory regulations.

At present, many mediators and parties are using electronic means of communication in compulsory or voluntary mediation schemes, depending on the circumstances of the dispute[131]. Due to the distance between

125 The requirement to use a secure electronic signature had been regulated in Article 11 of the Regulation on Consumer Arbitration Boards (Tüketici Hakem Heyetleri Yönetmeliği). The current text of Article 11 doesn't contain this requirement.

126 See: https://adana.ticaret.gov.tr/uygulamalar/tubis accessed 11 April 2025.

127 See: For detailed information on the mandatory mediation schemes in Turkey, see: Burçin **Yazıcı**, "Mandatory Mediation Practices in Turkey and Current Developments", Necmettin Erbakan University Law Faculty Journal, Volume 7, No 2, 2024, pp. 392.

128 Since arbitration has a limited application in Turkey, we don't evaluate arbitration here. In Turkey, arbitration is used mainly by companies. See: Mustafa **Göksu**, Civil Litigation and Dispute Resolution in Turkey, Banka ve Ticaret Hukuku Araştırma Enstitüsü, Ankara 2016, pp. 33.

129 The first type of dispute to be subject to compulsory mediation was labour disputes. This regulation was severely criticized by some Turkish scholars. For example see: Ömer **Ekmekçi**/Muhammet **Özekes**/Murat **Atalı,** Hukuk Uyuşmazlıklarında İhtiyari ve Zorunlu Arabuluculuk, 1. Baskı, On İki Levha Yayınevi, İstanbul 2018, pp. 109-117.

130 See: Article 18/A of The Law on Mediation in Civil Disputes, Article 3 Of The Law Of Labour Courts No. 7036, Article 5/A of The Turkish Commercial Law. For detailed information on the mandatory mediation schemes in Turkey, see: **Yazıcı**, pp. 395-408.

131 See: **Çetin**, pp. 109-130.

the parties and the mediator, remote communication tools such as teleconferencing and videoconferencing are widely used. Even in some cases, the parties have chosen not to meet physically by mutual agreement, even though they live and work in the same city. When the meetings are held online, if all parties have a lawyer, the online mediation process can be easily completed from start to finish, as lawyers almost always have a secure electronic signature. If the parties represent themselves, it is more difficult to complete the process remotely. In this case, the documents (the final minute and the settlement agreement) are usually sent to the parties by post. Nevertheless, other parts of the mediation process can be conducted remotely. As a result, thanks to the recent promotion of the mediation method, online dispute resolution has already been implemented to a certain extent in Turkey.

The documents that are produced during the mediation process (first meeting minutes, final minutes, self-employment receipt, etc. except settlement agreement) are uploaded to the UYAP Mediator Portal by the mediators. However, the UYAP Mediator Portal doesn't provide the communication channel between the parties and the mediators. It only provides a technical mean for uploading of the relevant mediation documents into the digital medium. Unlike public ODR schemes in some countries, UYAP's design doesn't allow the preparation of a legally valid agreement through direct use of the UYAP Mediator Portal.

D. Assessment In The Light Of The ODR Methods

As an electronic case management system, the UYAP project has almost a quarter of a century of history. Since the beginning of the 2000s, it has been used by judicial authorities, courts and lawyers in the digital management of case files. One of the important remarks on the integration of ODR into the public justice system is the difficulty of implementing judicial technology projects in terms of technical and financial capacity. According to **Sorabji**[132]: *"The first question is not whether the resource capability exists to design and implement an OC, but whether it is likely to be implemented effectively in England. It is unfortunately a truism that significant public sector IT procurement projects do not have a track record of overall success in England."* Similarly, **Hodges** expressed concern about the sustainability of public funding for maintaining the online court

132 John **Sorabji,** "The Online Solutions Court - A Multi-Door CourtHouse For The 21st Century", Civil Justice Quarterly, Volume 36, Issue 1, 2017, pp. 10.

system in England[133]. In this regard, the establishment and operation of the UYAP system for almost a quarter of a century can be viewed as an indication of the technical capacity of the Turkish judiciary. Thus, the UYAP represents a robust technological infrastructure upon which further innovative adaptations can be built[134].

The first criticism that can be raised against the UYAP is that despite its' long history in Turkey, the Ministry of Justice hasn't started any comprehensive efforts to establish the use of the UYAP by the public as a default option. Actually, as it provides important convenience for the lawyers, most of them use the UYAP on a daily basis, but the lawyers can still use the online and offline routes at the same time. They can file a case on the UYAP, but still perform other proceedings in the same case by physically visiting the courtroom. They can use the UYAP in one case and the paper-based route in another case without any explanation. Such an approach leads to limited benefits in terms of the efficiency of the civil litigation system. In order to effectively benefit from digitization, the UYAP system must be used by the public in a uniform and consistent manner. As the Ministry of Justice strongly promotes the use of UYAP by court officials through legislative and administrative means, the use of UYAP by the public must also be promoted[135]. As will be discussed in the next section, there are different promotion strategies in different legal systems regarding the widespread and uniform implementation of electronic case management systems[136].

Unlike public ODR initiatives, the UYAP was designed primarily to meet the needs of government agencies, courts and lawyers, not the needs of non-lawyers in Turkey. For example, the use of secure electronic signature or other related document drafting programmes is difficult for the ordinary non-lawyer litigant. Even in the public announcements of the Ministry of Justice regarding the recent updates of the UYAP, the benefits

133 Christopher **Hodges**, "Proposed Modernisation of Courts in England & Wales: IT and the Online Court", International Journal of Procedural Law, Volume 6, Issue 1, pp. 9.

134 *"An advanced example is Turkish UYAP system, which was developed to ensure ...",* ***European Bank for Reconstruction and Development****,* Online Courts In Commercial Disputes, pp. 18.

135 See: Article 5/1 and Article 5/7 of the Regulation, published in the Official Gazette of August 06, 2015, number 29437, https://mevzuat.gov.tr/mevzuat?MevzuatNo=23615&MevzuatTur=7&MevzuatTertip=5 accessed 03 April 2025.

136 **Inter-American Development Bank**, Digital Technologies for Better Justice A Toolkit for Action, Discussion Paper No: IDB-DP-761, April 2020, pp. 33.

for lawyers were usually explained[137]. However, this was a reasonable goal for the UYAP, considering that when the design efforts began, there was no widespread awareness of ODR methods throughout the world. Today, one of the significant contributions of ODR methods in terms of digitization is that the digital platforms of the judicial system can be designed directly for the use of ordinary people[138]. Thanks to the developments in human-centered design, legal design, artificial intelligence and other related fields, the direct conduct of judicial proceedings by the parties without the assistance of lawyers is increasingly becoming a more realistic option every day[139]. Solution Explorer in Canada, Stage 1 of the online court proposal in the United Kingdom, and the general design of these initiatives (in a navigable format for the self-represented parties) illustrate this fact. At this point, in order to provide meaningful access to justice, it is necessary to redesign the UYAP in a user-friendly way in light of the recent developments.

According to a notable distinction in the ODR literature, digitization in the judiciary can be realized in two different ways[140]. In the first, the existing judicial system is transferred to the digital space. In this way, digitization facilitates access to the courts for the public. Therefore, the role of technology in this approach is mainly instrumental. In the second approach, digitization should be employed to innovatively redesign the procedural structure and rules by moving beyond copying the existing procedures to the electronic space[141]. Until recently, technology has been used mostly to copy existing judicial procedures rather than to innovate new ones. Such an approach leads to the transmission of old problems into the new online systems, whereas an innovative approach to digitization can

137 For example see: https://bigm.adalet.gov.tr/Home/SayfaDetay/e-durusma-sistemi17062020040538 accessed 11 April 2025.

138 **Susskind**, pp. 128; **Briggs**, Final Report, pp. 45, para. 6.43.

139 **Susskind**, pp. 123-128 and pp. 153-158; *"AI that is able to advise, can be useful for people and potential parties to a court case, who are looking for a solution to their problem…",* Dory **Reiling**, "Courts and Artificial Intelligence", International Journal for Court Administration, 2020, Volume 11, Issue 2, Article 8, pp. 4.

140 **Susskind**, pp. 33-36; **European Bank for Reconstruction and Development**, Online Courts In Commercial Disputes, pp. 4; **Nunes**, pp. 15-21.

141 **Susskind**, pp. 123-128; *"This is a concept which entails not only the integration of technical innovations in the workings of the judiciary but the rethinking of court processes in their entirety to ultimately increase access to courts and court user satisfaction.",* **European Bank for Reconstruction and Development**, Online Courts In Commercial Disputes, pp. 4.

address some important problems inherent in the existing judicial systems[142]. In other words, since digitization offers new opportunities for redesigning the inefficient judicial processes and addressing structural deficiencies, technology should not be employed as a mere technical tool that only facilitates access to courts[143].

According to the second approach, most of the rules that apply in court systems are not indispensable preconditions for a fair trial, but the product of the resources available at a certain point in time[144]. When those rules are transferred to online platforms without further consideration, the result may be missed opportunities in terms of exploiting the advantages of online technologies[145]. For example, whereas improving the quality of cars through technical adjustments may lead to limited gains, the production of driverless cars will lead to radical changes in the industry and social life[146]. As a result of the transition from the technically improved car to the driverless car, the experience of "driving" a car will change fundamentally. Similar comparisons can be made for various areas, including the legal system. It is therefore important to use digital technologies in innovative ways to truly improve access to justice[147].

When transferring the existing judicial procedures to the digital platforms under the first approach, the goal of digitization is usually to improve the efficiency of the judiciary. However, **Rabinovich-Einy** observes that considering digitization efforts only in terms of efficiency is a narrow

142 See: The Rt. Hon. Sir Ernest **Ryder** (*Senior President of Tribunals*), "The Modernisation of Access to Justice in Times of Austerity", 5th Annual Ryder Lecture: the University of Bolton, 3 March 2016, pp. 11, https://www.judiciary.uk/wp-content/uploads/2016/03/20160303-ryder-lecture2.pdf accessed 13 July 2024.

143 **Ryder**, pp. 11; Also see: *"Digitizing existing procedures, however, is only the beginning. Information and communication technologies not only make access to justice easier, they also open the door to other ways of resolving disputes.",* **Reiling**, Beyond Court Digitalization With Online Dispute Resolution, pp. 4.

144 **Susskind**, pp. 55-56.

145 See: *"Conceived in the dark ages and reformed radically in the nineteenth century, our court system seems otherworldly…",* **Susskind**, pp. 29*; See: "Much has changed since, although many of today's court processes and sometimes even the buildings themselves have not altered greatly since the nineteenth century.",* **Susskind**, pp. 55.

146 **Susskind**, pp. 34-35.

147 **Susskind**, pp. 34-35; Also see: *"It is neither feasible nor necessary for the online court to use the familiar tools of real-life court; instead, new tools must be developed to account for technological development. The lessons to be learned throughout this process might be able to improve the legal system in its entirety …"*, **Menashe,** pp. 953.

perspective[148]. Viewing technology as a purely technical factor that provides efficiency gains leads to limited results in terms of other judicial values, such as fairness, party satisfaction, predictability, legitimacy, access to justice, accountability, and equality[149]. In response to the problem of the efficiency paradigm, **Rabinovich-Einy** proposed a multidimensional learning paradigm, which envisions analyzing digital court data from a broader perspective and using such data to improve other procedural values as well[150]. Based on **Rabinovich-Einy**'s observation, it can be said that using digitization only to copy face-to-face court proceedings into the online medium not only transfers the old problems to the new system, but also misses an opportunity to enhance other values and principles of adjudication.

As in many other legal systems, the purpose of digitization efforts in the Turkish civil litigation system is mainly to ensure electronic access to existing court procedures[151]. Thanks to the UYAP, most court proceedings can be conducted remotely by the parties. Beyond providing electronic access to justice, the UYAP project has no objective to bring about fundamental changes in the structure of civil litigation. As explained previously, until recently there has been no such perception regarding the use of technology. At this point, the combination of innovative thinking regarding technology in the field of ODR with the long experience of the UYAP project can yield serious improvements in Turkish civil litigation. For example, instead of maintaining the existing hearing system through videoconferencing technology, a substantial change in the hearing system through digitalization can meaningfully reduce the duration and cost of civil

148 Orna **Rabinovich-Einy**, "Beyond Efficiency: The Transformation Of Courts Through Technology", UCLA Journal Of Law & Technology, Volume 12, Issue 1, Spring 2008, pp. 1-45; Also see: *"The key is to understand what can or cannot be achieved thanks to algorithms… Significant attention shall be paid not only to the acceleration of the civil proceedings but also to increase the quality of the civil justice.",* Maria **Dymitruk**, "The Right to a Fair Trial in Automated Civil Proceedings", Masaryk University Journal of Law and Technology, Volume 3, No 1, 2019, pp. 41.

149 **Rabinovich-Einy**, pp. 15.

150 **Rabinovich-Einy**, pp. 32-43.

151 *"In most foreign countries, "e-justice" means the use of information and communications technologies in the implementation of certain procedural actions by the courts and to improve citizens' access to justice.",* Olga **Zhurkina**/Elena **Filippova**/Tatiana **Bochkareva**, Digitalization of Legal Proceedings: Global Trends, Proceedings of the 1st International Scientific Conference "Legal Regulation of the Digital Economy and Digital Relations: Problems and Prospects of Development" (LARDER 2020), Advances in Economics, Business and Management Research, Volume 171, pp. 121.

litigation. Similar to ODR initiatives around the world, the provision of legal information to the parties through the UYAP can be another example. In the following section, these proposals are explained in more detail.

Compared to the UYAP, the Consumer Information System offers a relatively user-friendly dispute resolution experience. Consumers can apply to the consumer arbitration boards without the use of secure electronic signatures by simply entering the e-government website. The legal and technical explanations regarding the consumer rights and dispute resolution process facilitate the consumers' access to justice. The relatively user-friendly design of the Consumer Information System could be an expression of the global consumer protection policy. The protection and empowerment of weaker consumers against more powerful traders requires not only the granting of consumer rights through legislation, but also the user-friendly design of dispute resolution systems. Indeed, at this point it is useful to note an important similarity between the consumer protection movement and the ODR field in terms of understanding the objectives of ODR. Since access to justice is difficult for ordinary people in many legal systems, due to problems such as access to legal information or lengthy court procedures, not only consumers but also the general public need to be empowered through information technologies within the framework of ODR. In this respect, while initially the electronic signature was required for the completion of electronic consumer complaints, the later abolition of this requirement is illuminating in terms of showing the similar mindset that dominates consumer protection policy and the ODR movement.

An another dissimilarity between the judicial/public ODR initiatives and the digitalization of judiciary in Turkey is gradual placement of online ADR methods before the litigation in the world. Both in the private ODR schemes and public ODR schemes, online ADR methods have an important place and judicial resolution of disputes is seen as a last resort. In Civil Resolution Tribunal of Canada, online court system proposed in the UK and in internet courts of China, online ADR methods and litigation placed gradually as a part of digital system design. In Turkey, the entry of the classical ADR methods into the scope of the public dispute resolution system is a new phenomenon[152]. Therefore, the UYAP has no seperate digital

152 In Turkish law, the Law on Mediation in Civil Disputes No. 6325 entered into force in 2013. The first compulsory mediation scheme (in labour disputes) started in 2018.

portals for the conduct of online negotiation, online mediation and similar dispute resolution methods. The UYAP Mediator Portal is primarily used for the assignment of mediation applications among the mediators in the mandatory mediation schemes and to archive documents related to mediation processes. It doesn't provide any communication channel for the mediator and parties as in the ODR initiatives in the world.

In practice, depending on the will of the parties, mediation sessions may be conducted remotely[153]. In this case, the mediator and the parties hold mediation meetings using their own means[154]. This practice closely resembles the early stages of development of ODR methods in the world. In the early period of ODR, the performance of ADR methods using technological means was the dominant approach in the field. Performing negotiation, mediation, and arbitration sessions using video conferencing, e-mail, or teleconferencing technology was the early form of ODR[155]. As technology and dispute resolution methods have evolved over time, new ODR methods have emerged[156]. Structured digital dispute resolution forums embedded in public ODR schemes are the result of such an evolution over time. Therefore, the same path can be pursued for Turkey and online ADR methods can be integrated into the UYAP portal. Such a development can contribute to the amicable and early resolution of disputes through easy-to-use online means.

III. REDESIGNING THE TURKISH CIVIL LITIGATION SYSTEM IN THE LIGHT OF ODR METHODS

A. General Perpective

In the light of developments in ODR methods around the world, a number of recommendations can be formulated for the transformation of

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By 2024, other disputes (commercial disputes, landlord-tenant disputes, inheritance disputes, etc.) were included in the scope of mandatory mediation. Accordingly, it is mandatory to use mediation before filing a lawsuit in certain disputes prescribed by the law. For the Law on Mediation in Civil Disputes No. 6325, see: https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=6325&MevzuatTur=1&MevzuatTertip=5 accessed 22 July 2024.

153 Orhan **Çetin**, "Telekonferans Yöntemiyle Yapılan Arabuluculuk Görüşmelerinde Yaşanan Sorunlar ve Bu Sorunlara İlişkin Çözüm Önerileri (Problems Experienced in Mediation Meetings Conducted by Teleconference Method and Suggestions for Solutions to These Problems)", Ankara Bar Association Journal, 2021/4, pp. 109-130.

154 **Çetin**, pp. 113.

155 **Mıdık**, Sorular, pp. 2.

156 **Mıdık**, Sorular, pp. 2.

the Turkish civil litigation system. These recommendations can be summarised as follows: By making e-filing mandatory in civil litigation, transforming our inefficient hearing system, redesigning the UYAP in a user-friendly way, integrating the ODR methods (negotiation and mediation) as separate portals in the UYAP system prior to the litigation stage, presenting the online guidance service to the parties during the dispute resolution process. In my opinion, the realization of these recommendations, if properly implemented, can truly improve access to justice in Turkish civil procedure. It should be noted that the proper implementation of the above recommendations is highly interdependent. For example, without conducting all court proceedings through the UYAP, it would not be possible to change our hearing system, or without user-friendly design, the effective online guidance service can't be provided. Therefore, they are intertwined, and from time to time the explanations may seem repetitive. However, our intention is to highlight a different aspect of the subject under each heading.

B. Making The Use Of UYAP Mandatory

One of the most important benefits of digitization is the removal of physical barriers, such as time and place constraints, by moving face-to-face proceedings to online platforms. Thus, the cost and time spent for the dispute resolution process can be significantly reduced. Reducing the time and cost of the dispute resolution process benefits both the government and the parties. The government can allocate sufficient resources for more disputes thanks to this reduction. Since the cost and time dimensions are closely linked to the right to fair trial, the positive effect of digitization on the time and cost spent for the litigation is also very important for the parties[157]. In other words, digitization is a very effective tool for the realization of the principle of procedural economy in the adjudication process[158].

On the other hand, the innovative rethinking of the adjudication process requires the completion of the transition from the physical space to the online medium. The judicial values and preferences embedded in the existing procedural rules can take more efficient, convenient and simpler forms thanks to the technological developments in the online medium. As digital technologies offer many new tools and opportunities that can't be

157 Sezin **Aktepe Artık**, Medeni Usul Hukukunda Adil Yargılanma Hakkı, 1. Baskı, Seçkin Yayınevi, Ankara 2014, pp. 253.

158 Muhammet **Özekes**, Dijital Çağda Yargılama, Adalete Erişim Ve Yargılama İlkelerine Genel Bakış (*Dijital Çağ*) (*in Dijital Çağda Medenî Yargı 2022'den Bakış, editor: Muhammet Özekes*), Adalet Yayınevi, Ankara 2022, pp. 46.

provided in the physical courtroom, the civil litigation system cannot be innovatively redesigned without the formation of a new and necessary electronic infrastructure for the adjudication process.

As a result, in order to efficiently harness the benefits of digitization, it is important to implement digitization in a comprehensive and uniform manner throughout the litigation system. If courts apply different rules, methods, and approaches to digitization in similar cases, the benefits of digitization will be limited due to inconsistent and conflicting applications. For example, if the judge accepts electronic filing or e-hearing in one case but rejects it in another without sufficient reason, the desired results of digitization can't be fully achieved. Equally, if the plaintiff conduct court proceedings digitally but the defendant continue to use paper forms, or if the parties can use digital and paper methods in each proceeding during litigation according to their preferences, the positive results of digitization will be very limited.

Parallel to the above explanation, the general approach adopted in the judicial/public ODR initiatives is the compulsory application of the ODR system. In British Columbia, it is mandatory to apply to the Civil Resolution Tribunal for the disputes under its jurisdiction. In China, internet courts have been designated as the mandatory venue for the internet-related disputes. For the UK, it is stated that the voluntary application can be implemented only in the beginning for the experimental and transitional purpose[159]. In the EU, the parties don't have to apply to the ODR platform, but the portal will be removed soon because of the low level of public interest and the voluntary nature of the system may be one of the reasons for the failure of the system. Exceptionally, the general rules of online litigation in the administrative and civil adjudication system of China envisage the voluntary application. However, it can be attributed to the sui generis conditions of China, where the population is very extreme, the geography is vast and the socio-economic disparities between the different regions of the country are higher[160].

Lord Justice **Briggs**, who embraced the idea of online courts for civil claims in the UK and defended it in his interim and final reports, pointed out that the simultaneous application of electronic and physical filing is

159 **Briggs**, Final Report, pp. 40.

160 See: *"Such a hybrid model is arguably necessary in view of the scale and pace of the implementation of the online courts reform and the significant variety in both the court system of different parts of China and the population. Although over one billion people in China uses the Internet regularly, that still leaves hundreds of millions without such access.",* **Gao/Xu**, pp. 19.

more costly than either physical or electronic practice only[161]. According to him, if completely paperless digital communication can be the default approach, then it would be possible to innovate the working conditions of the UK civil courts[162]. As explained by him: "*Online issue and filing in the Rolls Building will eventually become compulsory. Nor can a paper-based alternative provide the advantages of stage 1 interactivity or file access to be offered by the Online Court*[163]*."* **Rabinovich-Einy** underlined similar point regarding the use of the Israeli electronic case management system by attorneys. According to **Rabinovich-Einy**, *"... an attorney using the system will have to be consistent across cases - she will not be able to submit documents electronically in one case while insisting on the submission of paper documents in another.*[164]**"**

The Inter-American Development Bank's report, "Digital Technologies for Better Justice," states that judicial electronic filing and storage systems cannot have a positive impact on core judicial values if lawyers continue to use physical methods rather than virtual electronic systems[165]. In this regard, various governments have implemented strategies to expand the scope of electronic filing in courts. For example, Austria reduced court fees for electronically filed cases[166]. Italy reduced the daily service period of the courts to encourage e-filing[167]. In the Turkish civil procedure, **Özekes** stated that in order to promote digitalization, the court fee can be lowered for digitally filed cases[168].

A common underlying theme of these ideas and practices is the more efficient use of digitalization through a unified, far-reaching, and consistent practice in the civil courts. This approach should be taken as an

161 **Briggs**, Final Report, pp. 39-40.

162 In the interim report, Lord Justice Briggs pointed out that it is possible to end the paper-based communication system in the civil courts of England by way of the digitalization. According to him, digital communication can open the way for a new working conditions in the civil courts, by removing physical restrictions. See: **Briggs**, Interim Report, pp. 14 and pp. 62.

163 **Briggs**, Final Report, pp. 39.

164 **Rabinovich-Einy**, pp. 25.

165 **Inter-American Development Bank**, Digital Technologies for Better Justice A Toolkit for Action, pp. 33.

166 **Inter-American Development Bank**, Digital Technologies for Better Justice A Toolkit for Action, pp. 33.

167 **Inter-American Development Bank**, Digital Technologies for Better Justice A Toolkit for Action, pp. 33.

168 **Özekes**, Dijital Çağ, pp. 28.

example of Turkish civil procedure, in order to reveal the true potential of the UYAP system.

The UYAP system has been used for years in Turkey as a voluntary electronic case management system for the parties. At present, while the use of UYAP is already mandatory for judges and other court officials, lawyers are free to use UYAP in certain civil cases or certain civil proceedings in a non-uniform manner. However, since the UYAP facilitates the working conditions of lawyers, the use of the UYAP is common among lawyers[169]. Therefore, UYAP has ensured the digital transformation of courts in Turkey to a certain extent. At this point, in order to truly benefit from the advantages of digitalization, making the use of UYAP mandatory must be one of the main goals of the government. If all parties (civil courts, judges and parties) consistently use the UYAP system in civil cases, the time and cost elements of the litigation process can be significantly reduced.

According to the Inter-American Development Bank report: *"... making the use of e-filing mandatory ... is a valuable choice only when most users already use the platform regularly, and the systematic use has tested the reliability of the system.* [170]*"* From this perspective, it can be said that almost two decades of the history of the UYAP in our country prove that it is time to move to a new level in terms of using technology more widely, efficiently and innovatively. In this way, it would be possible to minimize physical procedures, redirect the saved time, personnel, and other resources to the more needy areas, and build innovative judicial processes and methods on the basis of the existing digital structure.

The CCP divides the Turkish civil litigation system into five main stages, namely filing a lawsuit (davanın açılması), exchange of pleadings (dilekçeler teatisi), pre-trial examination (ön inceleme), trial (tahkikat), oral argument and judgment (sözlü yargılama ve hüküm). During these stages, the judge and the parties can perform many judicial acts. If the use of the UYAP system becomes mandatory for the parties, then as a rule, all litigation acts such as filing a lawsuit, submitting an answer, pre-trial hearing, paying court fees, objecting to the expert's report, amending the claim or defences shall be performed through the UYAP system. The parties shall not be able to perform the civil proceedings through the court, except in

169 Nevertheless, depending on the digital divide/technological illiteracy or personal preferences, lawyers use online and offline methods in a mixed way.

170 **Inter-American Development Bank**, Digital Technologies for Better Justice A Toolkit for Action, pp. 33.

necessary situations. However, mandatory use of the UYAP in civil litigation may have unintended negative consequences for parties. Individuals who do not have access to digital tools or skills may have difficulty accessing the justice system. In this case, the digital technologies intended to enhance the right to a fair trial will have the opposite effect. In order to prevent such a negative impact, some measures should be taken for people such as the elderly, the poor or those living in rural areas[171]. In this regard, maintaining the paper-based route in exceptional situations could be the first alternative[172]. Providing free computers in public libraries or court buildings could be one of the other additional measures[173]. For example, in order to ensure seamless transition to fully digital adjudication, in the initial period of the new system, the people who are above a certain age limit could still continue to perform judicial proceedings in the courtroom without giving any additional reason.

1. Eliminating Unnecessary Hearings Through the Mandatory Use Of UYAP

In Turkey, despite the existence of the UYAP system, the courts still hold hearings in civil cases for the really minor matters. Simple case management issues, such as whether the expert report is ready, whether the petitions have been served, whether the document related to the case has been submitted by the third party, could be the subject of in-person hearings[174]. For example, during the hearing, the judge may notice that the expert report is ready, the parties may ask the judge for time to prepare their objections to the expert report, and the judge may postpone the hearing for this reason only. Similarly, in most pre-trial hearings, the judge renders simple decisions on the management of the litigation process. Even in the later stages of the judicial process, most hearings are used for the repetition of previous claims and defences in the written pleading. In practice, many hearings have no real influence on the outcome of the case,

171 David Freeman **Engstrom**, "Digital Civil Procedure" (September 15, 2021). University of Pennsylvania Law Review, Vol. 169, No. 7, 2021, pp. 2274; Julia **Hörnle**, Technical Study On Online Dispute Resolution Mechanisms, EU Report, Strasbourg, 1 August 2018, Document prepared by the Secretariat Directorate General of Human Rights and Rule of Law, pp. 63. Also see: **Özekes**, *Dijital Çağ*, pp. 42.

172 Lord Justice Briggs stated that the idea of maintaining offline routes permanently is not a realistic option. See: **Briggs**, Final Report, pp. 39-40.

173 See similarly: Sabreen **Ahmed**, "Online Courts and Private and Public Aspects of Open Justice: Enhancing Access to Court or Violating The Right To Privacy", The Age of Human Rights Journal, 20, June 2023, pp. 12.

174 **Budak** and **Karaaslan**, pp. 242.

except for the situations when witnesses are heard, the parties are questioned or the judge conducts an inspection. Thus, unnecessary hearings are one of the main causes of the long duration of civil cases in Turkey[175].

Such a hearing system violates Art. 6 of the ECHR, Art. 141 of the Turkish Constitution and Art. 30 of the CCP. Art. 6 of the ECHR guarantees the requirement of a reasonable time for both criminal and civil justice[176]. Art. 141/4 of the Turkish Constitution states that it is the duty of the judiciary to conclude cases with the minimum cost and as soon as possible. Similarly, Art. 30 of the CCP states that it is the duty of the judge to conduct the adjudication within a reasonable time, in an organized manner, and to avoid unnecessary costs[177]. On the other hand, due to the high number of hearings, judges are unable to give the parties a reasonable time to express themselves duly[178]. In general, hearings last for a short period of time, except in some exceptional circumstances. Thus, the right to be heard may be easily breached[179]. Since it is not possible to truly examine substantial legal and factual issues in such a hearing system, the right to a fair trial is compromised. Therefore, in order to comply with the principle of procedural economy, the right to be heard and the right to trial within a reasonable time, the hearing system of the Turkish civil courts must be revised.

At this point, mandatory use of the UYAP system in civil cases can significantly reduce the number of unnecessary hearings. As a result of the mandatory use of the UYAP, the parties will have to carry out all judicial acts in civil cases digitally. In this case, unless there are exceptional circumstances, judicial acts such as filing a lawsuit, submitting an answer,

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175 See: Güray **Erdönmez**, Pekcanıtez Usûl Medenî Usul Hukuku, 15. Edition, İstanbul 2017, pp. 887-888; **Mıdık**, Köklü Dönüşüm, pp. 69; For a similar statement for the Turkish criminal justice system see: Ayşe **Özkan Duvan**, "Bireysel Başvuru Kararlarında Makul Sürede Yargılanma Hakkı (Right to Trial Within A Reasonable Time in the Individual Application Decisions)", Ankara Üniversites Hukuk Fakültesi Dergisi, Volume 68, Issue 1, 2019, pp. 295.

176 **European Court of Human Rights**, Guide on Article 6 of the European Convention on Human Rights, Right to a fair trial (civil limb), Updated to 31 August 2022, pp. 90; **European Court of Human Rights**, Guide on Article 6 of the European Convention on Human Rights, Right to a fair trial (criminal limb), Updated to 31 August 2022, pp. 63.

177 For more information on this subject, see: Cumhur **Rüzgaresen**, Medeni Muhakeme Hukukunda Usul Ekonomisi İlkesi, Yetkin Yayınevi, Ankara 2013.

178 Muhammet **Özekes**, Medeni Usul Hukukunda Hukuki Dinlenilme Hakkı, Yetkin Yayınları, Ankara 2003, pp. 147; **Mıdık**, Köklü Dönüşüm, pp. 77.

179 For a discussion of the role of oral statements by parties in the framework of the right to be heard in civil procedure, see: **Özekes**, Hukuki Dinlenilme Hakkı, pp. 142-148.

pre-trial hearings, paying court fees, objecting to expert reports, and amending claims and defences will not be realized in court. In addition, the face-to-face or online hearing will not be held for procedural matters such as the preparation of an expert report, notification procedures, obtaining relevant documents from third parties. The completion of these and similar actions will be tracked and necessary steps will be taken by the court and the parties remotely through the UYAP. In the digital age, there is no need for costly (for the court and the parties) physical hearings for such matters. Once all the necessary steps have been taken digitally, the judge will determine the dispute after the face-to-face hearing in the courtroom. In this way, the conduct and tracking of case management procedures can be moved to the digital medium, while in-person hearings can be reserved for essential proceedings[180]. By reducing the overall physical workload, judges and other court personnel can focus on their core responsibilities. As a result, the legal and factual issues of the case can actually be considered, and sufficient time can be allowed for the parties to fully present their cases. In such a system, if properly implemented, judges would have the opportunity to decide disputes in one main hearing or after a limited number of successive hearings[181]. Thus, unlike the existing system of hearings, oral proceedings can be conducted in real terms. As a result, it may be possible to conclude cases in accordance with the right to a fair trial[182].

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180 In this case, the parties will track the adjudication process directly through the UYAP system. Further explanation is provided in the section on the user-friendly redesign of the UYAP.

181 Similarly, **Kıyak** argues that the scope of electronic hearings should be narrowed, as it is not possible to distinguish between substantive and procedural hearings in the existing Turkish civil procedure. In this context, a new hearing system should be created by combining an effective case management system with a concentrated hearing approach. The civil courts will then be able to hold electronic hearings more frequently. See: Emre **Kıyak**, "Duruşmada Etkinlik Kazanan Yargılama İlkeleri ile Usulî Müktesep Hak Işığında Türk Hukuk Yargılamasında Eş Zamanlı Ses ve Görüntü Aktarımıyla Duruşma Yapılmasının Olması Gereken Sınırları", Bahçeşehir Üniversitesi Hukuk Fakültesi Dergisi, C. 16, S. 205, 2021, pp. 1494-1495.

182 For a similar proposal with respect to hearings in civil litigation, see: Varol **Karaaslan**, *(in Ali Cem **Budak**/Varol **Karaaslan**, Medeni Usul Hukuku, 7. Edition, Filiz Kitabevi, İstanbul 2023*), pp. 242; For an opinion addressing this issue in the context of the different hearing systems adopted in the common law (concentrated hearing system) and continental Europe (discontinuous hearing system) and proposing a similar change, see: **Mıdık**, Köklü Dönüşüm, pp. 70-74; **Gökçe/Karabel** supports the idea of conducting judicial proceedings in civil litigation through the UYAP until the hearing stage. See: **Gökçe/Karabel**, pp. 564; For more information about different hearing systems, see: Arthur Taylor **Von Mehren**, "Some Comparative Reflections

B. User Friendly Redesign of the UYAP System

In order to conduct most of the civil litigation process seamlessly in the digital space, the UYAP should be redesigned in a user-friendly way. The existing features of the UYAP system are not suitable for ordinary people in Turkey. The underlying mindset of the design of UYAP mainly considers the convenience of the courts and lawyers rather than the ordinary people. However, the development of technology and ODR methods in various jurisdictions is aimed at serving the needs of ordinary individuals. For instance, the Solution Explorer of CRT is aimed at facilitating the access to legal information for the self-represented parties. According to the online court design proposed by Susskind, one of the most important features of the new court system is that it should be directly navigable by non-lawyer parties thanks to digital technologies. User-friendly design can contribute significantly to achieving this goal[183].

The first tangible modification that can be proposed in terms of user-friendly design is the elimination of the requirement for a secure electronic signature in the UYAP. Today, without a secure electronic signature, the parties can't file a claim or send documents (petitions, evidence, etc.) to the civil courts. In order to obtain a secure electronic signature, one must first complete a preliminary application through the internet, and after the preliminary application, the secure electronic signature can be obtained in person at the PTT branches[184]. However, the use of secure electronic signature requires the installation of specially designed software, namely UYAP Editor program and additional Java programs[185]. Based on my personal experience, I can state that it is not very easy to install and set up the necessary programmes even for an educated person. Even if a person completes all the necessary steps, he/she may still experience serious difficulties in preparing the documents in the UYAP Editor Program and uploading them to the UYAP. In practice, sometimes even lawyers face technical problems with the UYAP programmes and secure electronic signature. As a matter of fact, in practice the digital technologies of the judicial

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on First Instance Civil Procedure: Recent Reforms in German Civil Procedure and in the Federal Rules", Notre Dame Law Review, Volume 63 Issue 5 Article 2, 1988, pp. 612-622.

183 **Susskind,** pp. 123.

184 See: https://eimzaonbasvuru.ptt.gov.tr/ accessed 11 April 2025.

185 See: https://uyap.gov.tr/Uyap-Editor-Yardim, https://uyap.gov.tr/uyap-eimza accessed 11 April 2025.

system are mainly used by lawyers. It seems that the low interest of ordinary people in the system may be closely related to the design features of the UYAP.

In contrast to the UYAP, Turkish citizens can use the e-government website without a secure electronic signature. Turkish citizens can log into the system with an eight-digit password that can be obtained from PTT branches[186]. Thus, many official transactions can be carried out without visiting local government offices. However, the e-government website requires individuals to use a two-step identification method for some official transactions that require a higher degree of security. In this method, the password and subsequent SMS identification are used together[187]. Recently, even the conclusion of rental contracts has been introduced into the system. Under this service, the landlord can create a draft contract by entering the tenant's information and the rental price on the e-government website. Once the landlord completes the online document, it is presented to the tenant for approval. If the tenant approves the online document within three days, it becomes a legally valid rental agreement. Online rental agreements are one of the transactions that require the use of a two-step identity verification method. As can be seen from this example, legal transactions have already commenced without the use of secure electronic signatures in our country.

Consumers have also been able to contact the consumer arbitration boards through the e-government gateway in Turkey. The online complaint system of the Consumer Arbitration Boards, namely the Consumer Information System, was introduced in 2010[188]. Since 2010, Turkish consumers can start their complaint process via the Consumer Information System. The Consumer Information System doesn't require two-step verification by the parties. Parties can access and participate in the dispute resolution process using only the eight-digit e-government password[189]. As of 2025, the decisions of the Consumer Arbitration Boards are binding and enforceable like the regular first-instance court decisions in consumer disputes under the monetary limit of 149,000 Turkish Liras. Considering the

186 See: https://www.ptt.gov.tr/diger-ticari-islemler-abonelik-ve-basvuru-islemleri accessed 11 April 2025.

187 See: https://www.turkiye.gov.tr/2fa-tanitim accessed 11 April 2025.

188 See: https://karabuk.ticaret.gov.tr/haberler/tuketici-haftasi-kapsaminda-sayin-valimiz-mustafa-yavuzu-ziyaret accessed 11 April 2025.

189 See: https://www.turkiye.gov.tr/tuketici-sikayeti-uygulamasi accessed 11 April 2025; See: Article 11 of the Regulation on Consumer Arbitration Boards (Tüketici Hakem Heyetleri Yönetmeliği),

total number and value of disputes resolved through relatively easy-to-use digital means between 2010 and 2025, one can spontaneously think about whether the scope of similar identification methods can be expanded in the future.

As long as the electronic signature requirement continues to exist in the Turkish legal system, the benefits of UYAP will be limited except for lawyers. As a result, the benefits of digitalization for the general public will be largely limited. The implementation of new and more efficient legal procedures through digitalization requires the widespread use of digital judicial platforms by individuals. In order for the technology to be used not only by lawyers but also by the general public, access to UYAP must be facilitated. Available technical-legal means and similar initiatives around the world show that the security of justice systems can also be protected by alternative and easy-to-use means[190]. It should also be remembered that for a long time, electronic signature were required to file a consumer complaint digitally in Turkey. However, as of 2024, the e-government password is sufficient to file a consumer complaint through the Consumer Information System. In order to spread the benefits of the digitalization to the general public, a similar amendment can also be implemented for the UYAP.

A second user-friendly modification could be the redesign of UYAP to allow civil proceedings to be conducted directly through the system. At present, the judge and the parties prepare the necessary court documents (petitions, minutes, decisions) in the UYAP Editor programme and upload them to UYAP. As explained above, such procedures are complicated for ordinary non-lawyers to use. Moreover, as it requires two separate transactions (preparing the document and uploading it), it leads to inefficient

190 See: *"The electronic signature (e-signature) of documents is common, but not always required. However, if the e-signature standard and system has to be developed from scratch, it will add complexity to the deployment of the already complex e-filing system."*, **Inter-American Development Bank**, Digital Technologies for Better Justice A Toolkit for Action, pp. 32; According to another report, the e-Identity system adopted in Estonia may be useful in verifying the identity of parties. In Estonia, every citizen must obtain an e-ID. Every person who has a physical ID card can obtain an e-ID. Through the e-ID, individuals can access all digital public services provided by the Estonian state, including digital signature. According to the report, e-ID system is more secure than using logins and passwords. In this context, *"... jurisdictions that consider introducing online courts should first assess whether they have the opportunity to introduce eIDs ..."*. See: **European Bank for Reconstruction and Development**, Online Courts In Commercial Disputes, pp. 21; Also see: https://e-estonia.com/solutions/estonian-e-identity/id-card/ accessed 16 April 2025.

use of digitisation. Instead of preparing a petition in the UYAP editor and uploading it to the UYAP, filling in the draft petition directly in the system will reduce the time and cost of the process.

More importantly, the innovative use of technology is not possible in such a system. For example, even in mediation processes where all parties have secure electronic signatures, the parties still need to send the relevant document to each other to complete the signing process. Sometimes the process can take days due to delays by one of the parties. The main reason for this type of practice is to copy the classical/physical style of document generation to a digital medium. However, if it were possible to create and sign a common document directly in the UYAP portal, all parties could have signed it simultaneously from their computers or phones.

With changes such as those mentioned above, even the main proceedings in civil litigation could be significantly improved. For example, when the plaintiff and defendant exchange petitions directly in the UYAP, the system can be designed to alert and prevent further action if the necessary parts of the petitions remain blank. As a result, the parties will not be able to submit petitions that do not contain the necessary parts in accordance with the CCP[191]. Thus, the inclusion of some procedural rules in the UYAP, thanks to the technical adaptations, may contribute to the creation of a partially unbreakable procedural system.

More importantly, even the concept of petition may lose its meaning in the future due to the innovative ideas. In this respect, a remarkable idea proposed in the German law can be reviewed[192]. According to this idea, the parties will present their claims and defences in opposite columns of the same document that existed in the common judicial platform. The court will consider only the common digital document during the decision-making process[193]. It can be compared to the editing of a common Excel document in g-mail by several people at the simultaneously. As can be seen at first glance, within the framework of this idea, the stage of petition exchange in the digital age can take a completely different form. In this way, the concepts of "petition", "exchange" and even "notification" may evolve or disappear.

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191 The content of the first pleadings of the plaintiff and the defendant is governed by Art. 119 and Art. 129 of the CCP respectively.

192 **Arbeitsgruppe** im Auftrag de Präsidentinnen und Präsidenten der Oberlandesgerichte, des Kammergerichts, des Bayerischen Obersten Landesgerichts und des Bundesgerichthofs, Modernisierung des Zivilprozesses, Diskussionspapier, 2020, pp. 38-43.

193 **Arbeitsgruppe,** pp. 38-43.

In the ODR initiatives examined in this article, the parties typically conduct the proceedings directly in the digital justice system[194]. Generating a document externally and uploading it to the digital litigation platform is not a common practice. However, maintaining two methods at the same time may be a better alternative than allowing only one method to prevent the violation of the right of access to justice. In this way, parties who are not technically competent will be able to choose the most appropriate method for themselves[195]. In fact, China's Online Litigation Rules implement this method. According to Article 11 of OLR, the parties may use the internet litigation platform or upload the previously prepared document to the internet litigation platform by scanning, transcribing, duplicating or other means. In addition, giving the parties the right to choose may facilitate the transition from the existing system to the new system, given the familiarity of individuals with the existing form of UYAP.

A third topic that could be reviewed in the context of user-friendly design is the notification of judicial documents in civil litigation. As in many legal systems, the notification of judicial documents to the parties is one of the main reasons for delays in the civil litigation of Turkey[196]. In

194 See explanation under the heading: "B. Examples of The Integration Of ODR Into The Public Justice System".

195 **Kıyak** explained that in order to benefit from big data and artificial intelligence technologies in Turkish civil procedure, the optical character recognition method must be used in the UYAP. Thanks to the optical character recognition technology, the information in the physical documents can be converted into the machine-readable format. Thus, when the documents prepared in the physical environment are uploaded to the UYAP system, the UYAP can automatically transform the information embedded in these documents into structured data. Based on the structured data in the UYAP, intelligent decision support systems can be created. However, if the conduct of judicial proceedings directly in the digital litigation portal becomes the dominant approach in the future, the amount of unstructured data can be reduced in advance. As a result, the implementation of artificial intelligence technologies in Turkish civil litigation would be easier. See: **Kıyak**, pp. 88 and pp. 96; Also see: *"In order for AI to be able to process legal information effectively, the legal information must first be made machine processable.",* **Reiling**, Courts and Artificial Intelligence, pp. 7.

196 See similarly: **Karaaslan/Budak**, pp. 141; *"Since incorrect or delayed summons are common reasons for the postponement of hearing in many jurisdictions, e-summons can increase the timeliness and integrity of judicial action.",* **Inter-American Development Bank**, Digital Technologies for Better Justice A Toolkit for Action, pp. 32; For example, in an one decision, 35th Civil Chamber of İstanbul Regional Court Of Appeal removed a decision of the local court because of an incomplete investigation of the PTT officer in relation to the reason of absence of addressee in his/her given address. See: https://www.lexpera.com.tr/ictihat/bolge-adliye-mahkemesi/istanbul-bam35-hd-e-2019-1990-k-2019-1544-t-10-9-2019 accessed 05 August 2024.

order to mitigate the problems related to the notification process, the Turkish government launched the implementation of an electronic notification system a few years ago[197]. Similar to the general design of the UYAP, the PTT e-notification project can be criticized for being primarily designed for professional users and therefore not user-friendly. It transfers core elements of physical notification to the electronic space. Apart from the basic digitalization, the system doesn't offer essential changes in the form of notification procedures.

The Turkish e-notification system is designed and operated by the Turkish Postal Service, as is the physical notification system. The PTT charges a certain fee for the e-notification service[198]. The internal design of the e-notification application is similar to the physical one. The judicial authorities upload the notification documents into the system in a similar way to the physical notifications. There is not a great difference between the e-notification documents and the physical notification documents. It is difficult for ordinary non-lawyer citizens to have and use the electronic notification address due to the technical features of the system. Similar to the secure electronic signature, the electronic notification address is used by lawyers in practice. All lawyers, public institutions, notaries, banks and most companies must have an electronic notification address[199]. A natural person may use the electronic notification address if he/she wishes, but there is no legal obligation to use the system. However, as already mentioned, due to the digital divide, it is difficult to make the adoption of e-notification widespread in Turkish society, except for the current user base, i.e. lawyers. The slow pace of adoption of the e-notification system by natural persons since 2011 can be viewed as a sign of this difficulty.

In the digital age, it is possible to consider the law of notification from a different perspective. In my opinion, as a legal institution, the concept of notification belongs to the print-based era. One of the major advantages of digitalization is that it removes the constraints of time and space. On the other hand, one of the main reasons for the necessity of the notification

197 Electronic notification is regulated in the Article 7/a of the CON. It was included into the Code in 2011. In 2018, the Turkish Government amended this article and brought the requirement of having a electronic notification address for many entities and professions (private law legal entities, notaries, lawyers, mediators etc). For more information see: Nesibe **Kurt Konca**, Medeni Usul Hukuku ve İcra – İflas Hukuku Açısından Elektronik Tebligat, 2. Baskı, Seçkin Yayınevi, Ekim 2024.

198 https://www.ptt.gov.tr/e-tebligat-ucretler accessed 15 April 2025.

199 See: Article 7/a of the CON. For the National Electronic Notification System see: https://ptt.etebligat.gov.tr/login accessed 2 August 2024.

procedure (physical or electronic) is the distance between the physical locations of the judicial authorities and the parties. If the parties are present in the courtroom during the judicial process, there is no requirement for notification, as the same place is shared by all relevant actors in the process. Based on this reasoning, both the physical and electronic notification approaches could be considered irrelevant in the digital justice platforms where all parties have uninterrupted communication. If all actors in civil litigation share the same place as a result of the digital transformation of the world's judiciaries, why do courts still need to send the electronic documents to the parties?

Instead of copying the physical notification approach to the electronic medium by using an additional complex web platform, it would be more beneficial to gradually eliminate the requirement to notify court documents. In this case, the parties can be informed about the relevant proceedings only through the updated UYAP system[200]. Similar to the existing e-notification system, after a certain period of time has elapsed since the judicial authorities uploaded the documents to the UYAP, the notification can be considered served[201]. In order to ensure additional protection of the right to be heard, the messages and e-mails must also be sent to the parties

200 Although there is no legal basis in the CON for the service of proceedings via the UYAP, in practice, the UYAP system can be used for that purpose. There are some important higher court decisions on that topic reflect this reality. However those decisions and Turkish doctrin generally don't perceive it as a legally valid notification. See: Mine **Akkan**, "Tebligat Kanunu Çerçevesinde Elektronik Tebligat (Electronic Notification within the Framework of the Notification Law)", Medenî Usul ve İcra İflas Hukuku Dergisi (Journal of Civil Procedure and Enforcement & Bankruptcy Law), Volume 14, Issue 39, 2018/1, pp. 79; Taner Emre **Yardımcı**, "Yeni Elektronik Tebligat Yönetmeliği Çerçevesinde Elektronik Tebligat (Electronic Notification within the Framework of the New Electronic Notification Regulation)", Ankara Barosu Dergisi (Journal of the Ankara Bar Association), Issue 3, 2019, pp. 12; For the Turkish information on the higher court decisions in the similar vein see: Mıdık, Köklü Dönüşüm, pp. 90-92; For more information on the subject, see: **Kurt Konca**, pp. 89-93 and pp. 340.

201 Article 7/a of the CON states that the electronic notification is deemed to have been realized at the end of the fifth day following the reaching of the notification to the electronic address of an addressee.; For some decisions of the Turkish Constitutional Court that accepting the opening moment of judicial document in the UYAP as a starting point of the individual application time. See: AYM, B. No: 2019/13338, 8.3.2023, (RG., 16/5/2023 S. 32192).; AYM, B. No: 2019/21781, 23.11.2021, (RG., 23.12.2021, S. 31698).

through the UYAP SMS Information System[202]. Furthermore, during the transitional period, the first notifications of cases must also be sent by physical means in order to ensure gradual application. These first notifications of cases must be accompanied by the necessary explanation of the new system to the parties. In this way, it may be possible to reduce potential violations of the right to a fair trial.

In my opinion, the widespread application of the UYAP-based "notification" system would be easier compared to the existing e-notification system. On the other hand, the elimination of the classical notification approach will complement the idea of conducting the civil litigation process directly through the UYAP. If the notification procedure is limited only to the beginning of the case, the reorganization of the civil litigation process can be realized more easily. More importantly, it is hoped that most of the legal discussions on the validity of notifications will be terminated. As a result, the Turkish civil procedure can be transformed into a simpler, cheaper and faster system.

D. Integrating Online Negotiation and Online Mediation Into The UYAP System As A Separate Portals

Thanks to the efforts of the government, Turkey has familiarized with the ADR methods in recent years. Since the ADR methods are more flexible compared to the judicial system, the remote communication tools are already used by the parties in the ADR processes. In particular, during the Covid 19 pandemic, mediation sessions began to be held remotely[203]. As a result, the ODR methods have been partially implemented in Turkey for several years. At this point, as already understood from the explanations in the previous section, the UYAP doesn't provide a separate and user-friendly medium for conducting negotiation and mediation processes remotely. However, in the judicial/public ODR initiatives in the world, the online negotiation and mediation stages are part of the new dispute resolution system approach. In these initiatives, the parties are to be able to conduct ADR processes in the user-friendly dispute resolution portals by exchanging texts and documents, and can reach a settlement in the online

202 The right to be heard is explained in the Article 27 of the CCP explicitly. The right to be informed is regulated as a first element of the Art. 27. In practice, a relevant information about the dispute have been shared with the parties by way of the services which are performed according to the CON No. 7201.

203 **Çetin**, pp. 112.

medium[204]. In this context, the integration of the online negotiation and online mediation stages into the design of the new UYAP will facilitate the parties to settle a dispute in a simple and flexible way[205].

It should be emphasized that since the face-to-face ADR practice has a very short history in Turkey, it is really important not to introduce online negotiation and online mediation as mandatory stages before litigation[206]. Otherwise, it will have a negative impact on the development of classical ADR methods and the settlement culture in Turkey. Instead, it would be more beneficial in terms of access to justice to set up the UYAP online negotiation and the online mediation portals when mediators and parties need to access a user-friendly online platform during the mediation processes. If Turkey had a long history of ADR practice similar to developed countries, it might have been reasonable to make ODR methods mandatory. In my opinion, since there is a significant difference between countries where ODR has been developed, such as Canada, the UK and the EU, and Turkey in terms of ADR culture, this should be taken into account when transplanting ODR methods from Western legal systems to Turkey.

F. Integration of Online Guidance Services Into the Redesigned UYAP Portal

Access to legal information is one of the key elements of equality of arms in legal systems[207]. Equality of arms requires that there should be a fair balance between the parties in terms of the means available to them during the litigation process[208]. Accordingly, if one party to civil litigation has a manifestly weaker access to legal information than the opposing

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204 *"Parties can also share evidence with each other or the mediator by uploading documents in a files section on the ODR platform.",* Devin **Cooper**, Utah, ODR, and the New "Millennial"um, Brigham Young University Journal of Public Law, Volume 35, Issue 2, Article 5, pp. 276.

205 Based on my personal observations as a mediator, I can say that many disputes resolved through mandatory mediation with the involvement of a third party could have been resolved through direct online negotiation through the UYAP. In fact, in some disputes, the parties enter mandatory mediation in order to formalize their prior agreement. If they could have formalized their agreement through an online negotiation tool enabled by the UYAP portal, they would likely choose to do so instead of paying the third party.

206 *"Institutional ADR is unfortunately not a popular way of resolving disputes in Turkey."*, **Göksu**, pp. 33.

207 Emel **Hanağası,** Medenî Yargılama Hukukunda Silahların Eşitliği, Yetkin Yayınları, Ankara 2016, pp. 320.

208 **European Court of Human Rights**, Guide on Article 6 of the European Convention on Human Rights, pp. 90.

party, equality of arms and thus the right to a fair trial is violated[209]. In other words, the information asymmetry between the parties is directly linked with the right to fair trial[210]. In practice, access to legal information usually means access to a lawyer, and access to a lawyer may not be a viable option in most routine everyday disputes due to the low value of the dispute or the high cost of representation[211]. In order to overcome this problem, many legal systems have adopted a system of mandatory representation by a lawyer in civil cases[212]. In the draft version of CCP No. 6100, there was a provision on mandatory representation by a lawyer in civil cases[213]. However, this provision was not enacted. As a result, it is difficult to establish a fair balance between the parties in terms of access to legal information in many types of disputes around the world, including Turkey. Therefore, legal systems adopt various measures such as legal aid or pro bono legal services[214]. However, given the limited increase in judicial resources compared to the ever-increasing backlog in the courts, such measures are far from solving the problem[215]. At this point, the development of technology offers new and more effective methods to solve the problem of access to legal information[216].

Today, access to information has become easier compared to the past, thanks to widespread digitalization throughout the world[217]. As a result of

209 For example, if one party is much wealthier than the other, the refusal of an application for legal aid may constitute a violation of the principle of equality of arms. See: **European Court of Human Rights**, Guide on Article 6 of the European Convention on Human Rights, pp. 91.

210 **Hanağası**, pp. 315-317, 263.

211 Unlike our criminal justice system, Turkish civil procedure law does not provide for free legal assistance for self-represented parties. There is also no mandatory legal representation in civil courts. It should be emphasized that there was a provision for mandatory legal representation in the draft version of the CCP, but it was not enacted. See: **Hanağası**, pp. 328, 320.

212 Nazlı **Gören Ülkü,** "Medeni Yargılama Hukukunda Avukatla Temsil Zorunluluğu/Obligation of Representation by a Lawyer in Civil Procedure Law (in Turkish)", Marmara University Law Faculty Legal Research Journal, Volume 16, Issue 3-4, 2010, pp. 310-316.

213 **Hanağası**, pp. 328, 320; **Gören Ülkü**, pp. 321; It should be emphasized that for some joint-stock companies and cooperatives it is obligatory to have a contracted attorney as an exception according to Article 35/3 of the Law on Attorneyship No. 1136.

214 **Hörnle**, pp. 52

215 **Dymitruk**, pp. 38.

216 **Dymitruk**, pp. 38.

217 Buket **Abanoz**, "Hukuki Bilgiye Dijital Erişim", Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi, C. 26, S. 1, 2020, pp. 191.

the general ease of access to information, the scope of the courts' duties has been evolving[218]. As the study of ODR examples across the world shows, the new type of judicial legal platforms benefit more extensively and innovatively from digitalization[219]. For example, the Civil Resolution Tribunal provides parties with a general legal explanation of the dispute resolution process in a manner that is convenient for non-lawyers to understand[220]. It even aims to provide parties with tailored legal information on their dispute through the Solution Explorer[221]. The first phase of the UK's Online Civil Money Claim Project aims to follow the same method. EU ODR Portal, attempts to explain the dispute resolution process of the Portal through interactive information on its website. In Singapore, a program similar to Solution Explorer is used to support parties in traffic accident cases[222]. Recent developments in the field of artificial intelligence, in particular generative AI, also have great potential for rethinking the functions and boundaries of the litigation system in the digital age[223]. As a result, the availability of information about the law and the dispute resolution process as part of digital justice platforms has been increasingly recognized as within the duty of the judicial institutions[224].

The developments summarized so far indicate that digitalization offers a more comprehensive, uniform and inexpensive alternative to establish a fair balance in terms of access to legal information among individuals, compared to the traditional measures such as legal aid programs[225]. In this context, the UYAP system is an appropriate medium for providing online guidance services to parties during the civil litigation process. Starting

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218 See: **Abanoz**, pp. 196-197.

219 *" … a major development in terms of courts and access to justice has been the spread of ODR in civil proceedings."*, **Gras**, pp. 33.

220 See explanation under the heading: "B. Examples of The Integration Of ODR Into The Public Justice System".

221 See explanation under the heading: "B. Examples of The Integration Of ODR Into The Public Justice System".

222 See: https://motoraccidents.lawnet.sg/ accessed 15 April 2025; **Akkaya**, pp. 310.

223 On the potential role of artificial intelligence in the courts, see: **Reiling**, Courts and Artificial Intelligence, pp. 4; **Dymitruk**, pp. 31-33; As a reflection of the above reality, in the online court concept proposed by Susskind, in contrast to the classical approach to digitalization, online guidance services hold a central place. The online guidance service is one of the key elements of the online court concept according to Susskind. See: **Susskind**, pp. 121-133.

224 For example see: **Stiglich**, pp. 7.

225 However, an over-reliance on technology can have negative consequences in the context of access to legal information. For an explanation of this issue, see: **Dymitruk**, pp. 33.

from the relatively simple civil cases that individuals commonly experience, the online guidance service can be delivered to the parties as part of the new UYAP system in Turkey. For example, many labour disputes, rental disputes and consumer disputes are relatively easy to resolve in terms of factual and legal circumstances. Embedding basic legal explanations regarding those disputes in the UYAP platform in a format that lay people can understand, through a simple text, video or program similar to Solution Explorer, could be a good starting point to solve the problem of access to legal information in the Turkish civil litigation system. In my opinion, such a step would be consistent with the principle of protecting the weaker party in these disputes, i.e. consumers, employees and tenants. As the Turkish Consumer Information System already offers certain online content on consumer rights and the dispute resolution process of consumer arbitration boards, it would not be particularly difficult to gradually introduce the same approach in the general civil litigation thanks to the new and user-friendly UYAP system.

In my opinion, among the modifications that can be introduced in the Turkish civil procedure by adopting the online court/ODR concept, the online guidance services can bring the most rewarding results in terms of access to justice. The fact is that in order to obtain the results recognized by the laws, the access to legal information is of vital importance in practice. No matter how far the law empowers individuals, if parties cannot effectively understand and benefit from the law, the law itself is of no value[226]. Therefore, through the updated UYAP system, making the conduct of civil litigation directly available to the parties as far as possible can really contribute to the right to fair trial and the rule of law in Turkey. In this way, a real practical change can be realized in the lives of many individuals[227]. As UYAP's long experience makes our judicial system particularly ready to implement such a vision, Turkey should not overlook this opportunity.

IV. THE NEED FOR EXPERIMENT

With the help of ODR methods, the transformation of established judicial procedures closely concerns fundamental judicial rights and principles of civil procedure. In particular, an over-reliance on digital tools or impetuous initiatives may be detrimental to the rights of the parties. As a

226 **Susskind,** pp. 69-70.

227 For a similar example concerning the implementation of the online guidance service in the Consumer Information System, see: **Mıdık**, Köklü Dönüşüm, pp. 97-98.

result, access to justice and the right to a fair trial may be compromised. To avoid that, many jurisdictions are introducing initial pilot projects. By starting with certain types of simple disputes or generally small claims, jurisdictions are testing innovations inspired by ODR methods. For the same reason, a gradual approach would also be reasonable in Turkish civil procedure. In this context, the development of a fully digital civil procedure for small claims in Turkish law would be an appropriate starting point.

In the Turkish civil procedure law, there is no special judicial track or court for small claims[228]. In the existing civil litigation system, the same procedures are applied regardless of the amount in dispute. This leads to inefficient use of public/private resources and violates the principle of procedural economy. Therefore, the lack of a special procedure or court for small claims has been criticized by various Turkish scholars and many have expressed the desire to create a new procedure for small claims[229]. Therefore, the creation of a fully online small claims procedure in Turkish civil procedure law would provide an important basis for the experimental implementation of the general proposals for the redesign of the UYAP

228 On the concept of small claim procedure, see: John **Baldwin**, "Is There a Limit to the Expansion of Small Claims?, Current Legal Problems", Volume 56, Issue 1, 2003, pp. 313-343; A simple trial procedure (*basit yargılama usulü*) is regulated in the CCP by starting from Article 316 to Article 322 for simple disputes. However, in practice, there are no significant differences between the simple procedure and the general procedure in terms of speed and cost. See: M. Kamil **Yıldırım**/Mehmet Akif **Gül**, "Küçük Uyuşmazlıkların (Small Claims)" Kendine Özgü Bir Prosedür Dâhilinde Çözümlenmesine İlişkin Düşünceler (Considerations for the Resolution of "Small Claims" in a Sui Generis Procedure)", Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi (Marmara University Law Faculty Journal Of Legal Research) Volume 27, Issue 2, 2021, pp. 1341.

229 **Yıldırım**/**Gül**, pp. 1349-1350; İbrahim **Ercan**, "Mukayeseli Hukuktaki Düzenlemeler Çerçevesinde Küçük Alacakların Tahsili Konusundaki Öneriler (Suggestions on Collection of Small Claims within the Framework of Comparative Law)", Selçuk Üniversitesi Hukuk Fakültesi Dergisi (Selçuk University Law Faculty Journal), Volume 20, Issue 1, 2012, pp. 231; İbrahim Barış **Sayar**, "Avrupa Basit Hak İddiaları Prosedürü (European Small Claims Procedure): Kapsamı ve Uygulanması Üzerine Bir İnceleme (European Small Claims Procedure: An Examination On Its Scope and Implementation)", Ankara Hacı Bayram Veli Üniversitesi Hukuk Fakültesi Dergisi (Ankara Hacı Bayram Veli University Faculty of Law Review), Volume 22, Issue 1, 2018, pp. 88-89; Mustafa Serdar **Özbek**, "Avrupa Konseyince Adalet Hizmetlerinin Etkinliğinin Artırılması İçin Öngörülen Tedbirler (Measures Prescribed by Council of Europe to Increase the Efficiency of Justice)", Ankara Üniversitesi Hukuk Fakültesi Dergisi (Ankara University Law Faculty Journal), Volume 55, Issue 1, 2006, pp. 271 and pp. 290.

described above. The nature and relatively low value of small claims justify the proposed changes. A specific digital procedure can also fill the access to justice gap that exists in Turkey with regard to small claims. As explained above, the electronic complaint system used by Turkish consumers (Consumer Information System) already successfully employs some of these changes.

CONCLUSION

At present, there are important developments with regard to public ODR mechanisms around the world. Similar to the institutionalization of ADR in judicial systems, it would not be wrong to portray the idea of redesigning judicial procedures in the light of ODR methods as a new and effective movement[230]. In the long run, ODR will probably affect all judicial systems. In the future, the existence of ODR-infused judicial procedures may be considered as a requirement for access to justice. For this reason, in this article we have attempted to rethink the Turkish civil litigation system in the light of ODR methods. The following conclusions have been drawn from this examination:

1) In order to truly benefit from technology in Turkish civil procedural law, the UYAP portal must gradually be established at the centre of the civil litigation system. The ultimate objective must be to mandate online litigation, with the exception of necessary physical proceedings. In this case, the number of hearings in the civil process can be significantly reduced as a result of conducting most of the civil process digitally.

2) The UYAP must be redesigned according to the ODR paradigm. It should be a user-friendly and intelligent electronic medium for both judges and parties. For the non-lawyer it is a challenging to use the UYAP with its existing features. In particular, in order to make the use of the UYAP widespread in Turkish society, the need for a secure electronic signature in digital proceedings must be eliminated. To facilitate access to legal information, the online guidance services should be provided to the parties through the UYAP, starting with simple and routine disputes in society.

3) Online negotiation and online mediation should be included in the new system design of the UYAP as separate portals. In this context, the parties should be able to form a legally valid settlement agreement through the UYAP without the use of a secure electronic signature.

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230 *"... the institutionalisation of ADR processes and the expansion of ODR within public courts – appear to be motivated by similar driving forces...",* **Gras,** pp. 50.

4) As all parties share the same medium (UYAP) thanks to widespread digitalization, the notification process should be gradually removed from the civil procedure. Except for the initial notification of civil cases, the parties should follow the civil proceedings directly in the UYAP.

5) Similar to other ODR initiatives in the world, these ideas must first be tested in the context of small claims in Turkish law. In order to eliminate unpredictable adverse outcomes and to ensure gradual application, the adoption of such an approach is inevitable.

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