



The Concepts of eJustice

Praha, 23. 4. 2009

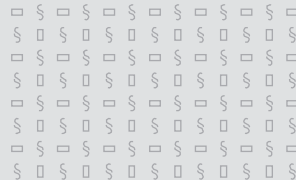


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Proportionality
Efficiency
Independence



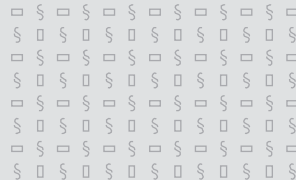
Proportionality (Alexy, Dworkin)

All grounds of the system of law have a form of legal principles

None of these principles is untouchable

There is no general or strict hierarchy of principles

The conflict of principles is solvable by their proportional application
(appropriate, purposive, balanced, minimally harming)



Efficiency v. Independence

Efficiency - fulfillment of the purpose / costs (incl. time)
(not absolute)

Is the implementation of ICT into the judiciary:

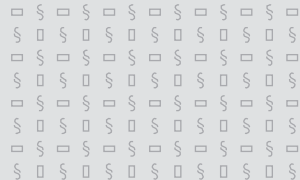
1 necessary?

2 improving its efficiency?

3 infringing its independence?

4 infringing other core procedural principles?
(equality of parties, right to access the court, certainty, ...)





Independence - excessive threats

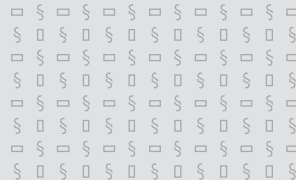
Development of the infrastructure - administration, private sphere

Providing services - administration, private sphere (substantive information)

Form submissions, format limitations - general public

Exclusion of off-line submissions - individuals

Form deliberation/deciding – judges



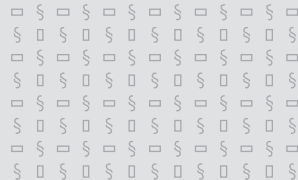
Conclusions

the process is inevitable

it has to be actively managed by lawyers with regards to the principle of proportionality (the judiciary has to play active role)

any consequent infringements of principles have to be openly discussed

some former major issues are not problematic at all while former marginal problems will play crucial role



... thank you for your attention

Cyberspace conference – cyberspace.muni.cz

Masaryk University Journal of Law and Technology – mujlt.law.muni.cz

Atlas ICT práva - atlas.law.muni.cz

Blog Pracovní skupiny pro právo a ICT – ict-law.blogspot.com