

# DIGITAL EXCLUSION AS A ROADBLOCK TO CYBERGOVERNANCE

Andrej Krištofik

andrejkristofik@gmail.com

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**Abstract:** *Migration of public sector and public sector services into the digital arena is mostly seen as a good and welcomed development. Digitalisation of public sector tends to be on the forefront of many political programs and in general most of the internet users are welcoming of this change. Such polling however doesn't take into the account the other part of population, those that are not for one reason or the other part of the 'internet users' and therefore those that could not only be the most effected by such migration, but very often those that are part of the especially vulnerable population Before we can commit to fully digital, or even mostly digital, public administration we not consider those excluded from such administration and how to protect their rights, or to begin with, even ask the question whether digital exclusion poses such an urgent question.*

## 1. Introduction

Towards the end of the year 2020 Ursula von der Leyen in her speech at the roundtable said that the European Union made sure that everyone had access to the internet, later developing this point further implying that such access is, or at least should be, a human right.<sup>1</sup>

This proclamation was especially timely in the year of pandemic (and online schools) which has showed us the great divide in access to online platforms.<sup>2</sup>

Ursula von der Leyen in her aforementioned speech mentioned that there remains some almost 40% citizens of EU that are without access to the internet. Contrary to that, survey conducted as a part of the Europe 2020 project found out that 87% of the European population are active internet users.<sup>3</sup>

Regardless of which number of digitally excluded people one chooses to go with, the problem of digitally excluded citizens goes beyond a mere issue of access to the internet, when one considers digitalisation of public administrative services such as municipal offices, social security or courts. This issue then becomes larger problem of access to those services that are elementary to being a citizen. It is then not enough to say that only a small percentage of citizens would lost their access to those services, as long as there are some, the discussion should be had on what to do about them, whether the state should maintain the existing system as some kind of a parallel, or whether establishment of some kind of alternative access point for those in need would be the way, or simply undergo a full digitalisation and suppose that every affected person is able to gain access in one way or another in the end.

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<sup>1</sup> Statement by the President at 'Internet, a new human right' [online]. European Commission – European Commission [cit 25. 10. 2021]. [https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT\\_20\\_1999](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_20_1999).

<sup>2</sup> Two thirds of the world's school-age children have no internet access at home, new UNICEF-ITU report says [online]. [cit 25. 10. 2021].

<sup>3</sup> Axess. Acquisition of Key Competences for Economic and Social Sustainability. Strasbourg: Erasmus+, 2017. <http://www.axesslearning.eu/docs/AXESS-IO2-SnapshotEU.docx>.

## 2. Alternatives, Parallels and Exclusion

Since the year 2014 any and all submissions to the Czech commercial register can be done only via so called intelligent form, provided by the register. As much as this form presupposes ones ability to fill it out online, it still allows for this form to be sent via a post in printed version. Slovak commercial register went one step further and since 2020 accepts only e-submissions of these forms. This effectively prohibits anyone who is digitally excluded from opening and running their business. This change came after 8 years of maintaining the dual system as Czech republic, during which it has been observed that more than 80% of submissions has been filed electronically. Besides this observation, the implied argument is that the demand for being internet user is placed only on selected part of citizens, namely businesspeople looking to start a company, which is a group in which one might reasonably expect very high digital literacy.

This approach is one of complete digitalisation (and therefore a complete exclusion). In the case of public administration it is permissible only in cases where it will not affect the whole population and the part of the population which is affected does not deserve a special consideration, and ideally in addition to that it affects group with very small percentage of digitally excluded people due to its nature.

On the other end of this spectrum lies partial implementation of digitalised service. A solution which maintains the original “analog” solution in parallel to the newer digitalised one. While this solution might be seemingly perfect for dealing with the issues of the digital exclusion, it does give rise to the question of the meaning behind the digitalisation.

Digitalisation usually is not, or at least should not be, done for its own sake.<sup>4</sup> The process follows certain goal, notably efficiency and dealing with backlog, such as in court cases or, ironically, ensuring broader access to the administrative service. It is then questionable whether maintaining such dual system would not lead only to more complications or additional work, such as in situations where all the e-forms have to be printed out before being processed further. Further, such parallelism has been identified as a source of potential risks, such as file mix-ups, by Finland’s medical personnel, that are maintaining both digital e-Health records and paper records by those that do not participate in the e-Health initiative.<sup>5</sup>

The third option, lying somewhere between these two, is one of full digitalisation with a subsequent creation of some kind of access points. The main difference to parallel system described above is the fact that under such system only the digital process would exist, as those access points would still enter the requests and information for the digitally excluded into this single system. Further, the greater efficiency of this system should be ensured by smaller number of requests due to the option of digitalised submissions, where the motivation should be firstly the comfort of not having to go to the bureau in its opening hours and it could further be encouraged by a fee structure, since less manpower would be required, which is a solution of aforementioned Czech commercial register, which asks for smaller fees, should one choose to submit e-forms.

Such approach to this problem has been in theory proposed for example by Susskind as a way to ensure access to online courts even to those that would be excluded from this service.<sup>6</sup> Interestingly, rather similar solution can be found even under the systems of full digitalisation, and therefore a potential full exclusion. Canadian Civil Resolution Tribunal, a small claims ODR system, recognizes an institute of “assistant”, which is a person different from legal counsel and whose sole purpose is to assist with the digital handling of the case.<sup>7</sup>

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<sup>4</sup> SUSSKIND, R. *Online courts and the future of justice*. Oxford: Oxford University Press, 2019.

<sup>5</sup> VEIKO, T. et. al. *E-health and e-welfare of Finland*. Oulu: Check Point 2018, p. 141. [https://www.julkari.fi/bitstream/handle/10024/138244/RAP2019\\_7\\_e-health\\_and\\_e-welfare\\_web\\_4.pdf?sequence=4&isAllowed=y](https://www.julkari.fi/bitstream/handle/10024/138244/RAP2019_7_e-health_and_e-welfare_web_4.pdf?sequence=4&isAllowed=y).

<sup>6</sup> SUSSKIND, R. *Online courts and the future of justice*. Oxford: Oxford University Press, 2019, s. 215–221.

<sup>7</sup> <https://civilresolutionbc.ca/tribunal-process/starting-a-dispute/helpers-representation/>.

The difference lies in the question of who should provide this service, and therefore whose responsibility it is to ensure the access. In the access point scenario, it is the service providers, or in this case the state, that sees it as its responsibility to make sure that everyone has access, in the latter it is on the person that wishes to access this service.

### 3. Conclusion

This article has been a very rough introduction to the potential approaches to the problem of digital exclusion. The problem is of course much nuanced which could potentially be important for solving this problem.<sup>8</sup> Some authors distinguish several tiers of digital exclusion, where the “simple” question of access is only the first one, subsequent tiers deal with problems such as digital skills, which could be important for design of digital services, that would keep in mind even its most unskilled users.<sup>9</sup> As the digital divide introduced by a mere issue of access is closing we should start to pay more attention to problems of digital skills, a small stepping stone to greater digitalisation.

Whichever solution we may choose in the end, there are several questions to be kept in mind. First, who will be affected and whether this group deserves special consideration. Second, will the proposed solution actually bring some benefits, as opposed to only complicating things further. And lastly, whose burden is it to ensure to accessibility. Above that there are of course several practical questions, such as the associated costs and effectiveness, which are considerable constraints on proposed solutions, should we not taken them into consideration any “brute-force” solution might be on table, such as creating phone-operated services that would transcribe analog requests into the required digital ones. The governments duty to ensure the availability of services is then not absolute but constraint by these requirements.

Process of public administration digitalisation should lead to greater efficiency and accessibility, therefore such end result that would exclude some citizens from the services should not be acceptable.

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<sup>8</sup> According to the Chancellor of Justice of Estonia, the drop in users of digital services among older citizens is mostly due to lack of skills, not lack of access. See: Statistics Estonia should collect data on Internet usage by the elderly | Õiguskantsler [online]. [cit 30. 10. 2021]. <https://www.oiguskantsler.ee/en/statistics-estonia-should-collect-data-internet-usage-elderly>.

<sup>9</sup> CARADAICA, M. Digital Divide in the European Union. Bucharest: FSP, 2020. [https://www.researchgate.net/publication/348365501\\_Digital\\_Divide\\_in\\_the\\_European\\_Union](https://www.researchgate.net/publication/348365501_Digital_Divide_in_the_European_Union).