



<https://doi.org/10.15407/scine18.04.120>

BARABASH, T. M.¹ (<https://orcid.org/0000-0001-5541-2764>),
HUMENIUK, I. O.¹ (<https://orcid.org/0000-0003-4924-2927>),
LEVYTSKA, L. V.¹ (<https://orcid.org/0000-0002-5897-7194>),
and **MUZA, O. V.**² (<https://orcid.org/0000-0003-0869-2542>)

¹The Legislation Institute of the Verkhovna Rada of Ukraine,
4, Nestorivskiy Ln., Kyiv, 04053, Ukraine,
+380 44 235 9601, zak_norm@rada.gov.ua

²Academy of Advocacy of Ukraine,
27, Taras Shevchenko Blvd., Kyiv, 01032, Ukraine,
+380 44 246 5788, referent@aaau.edu.ua

INNOVATIVE APPROACHES TO JUDICIAL MODELING IN THE CONTEXT OF E-DEMOCRACY: PROSPECTS FOR UKRAINE

Introduction. *Innovative approaches in the field of digitalization of the judiciary of Ukraine include the development of network technologies, introduction and improvement of electronic court document management, creation of automated systems for generalization of judicial practice and analysis of court activity, updating the telecommunications structure of courts, creating a single judicial database.*

Problem Statement. *An important research task is the monitoring of “electronic tools” for modelling litigation in order to complete, timely, impartial, expedited and effective consideration of court cases, as well as the development on this basis of legislative and law enforcement proposals.*

Purpose. *Theoretical understanding of the role of law and law enforcement practice in the process of using e-democracy tools in the judiciary.*

Materials and Methods. *Logical law, comparative law, empirical, deductive and systematic methods of analysis of the development of electronic litigation in Ukraine.*

Results. *The current state of implementation of the Unified Judicial Information and Telecommunication System in Ukraine has been analyzed. Legal monitoring of the legislative framework for e-court regulation in Ukraine has been conducted.*

Conclusions. *In order to improve the legal basis for modelling litigations in Ukraine, the following issues need to be addressed: 1) access to court by videoconference for the parties to the case; 2) use of all possible (existing) messengers for communication with the court; 3) appeal to the court (submission of documents) exclusively in electronic form; 4) remote form for jurisdictional proceedings; 5) remote access to court records for all employees; 6) the possibility of signing the text of the decision without a personal presence in court (electronic signature); 7) automatic distribution of cases between all judges of Ukraine of the relevant specialization (departure from territorial jurisdiction).*

Keywords: e-democracy, e-government, e-court, e-litigation, trial modelling, Unified Judicial Information and Telecommunication System, and videoconference mode.

Citation: Barabash, T. M., Humeniuk, I. O., Levytska, L. V., and Muza, O.V. (2022). Innovative Approaches to Judicial Modeling in the Context of E-Democracy: Prospects for Ukraine. *Sci. innov.*, 18(4), 120–130. <https://doi.org/10.15407/scine18.04.120>

The rapid development of public relations leads to the departure from outdated forms of government and the introduction of new communications between providers and recipients of public services. E-government, identified as one of the top priorities for public administration reform, should help increase the efficiency, openness and transparency of public authorities and local governments, with the use of information and telecommunications technologies to form a new type of state focused on meeting the needs of citizens. E-government is one of the areas of state policy of digital transformation of society, the implementation of which involves creating conditions under which citizens will experience the benefits of technology in their lives. It is e-government that is tasked with improving the quality of service for individuals and legal entities and increasing the openness, transparency and efficiency of public authorities and local governments. This should ensure the achievement of European quality standards for electronic administrative services. In addition, the introduction of e-government is a basic prerequisite for building an efficient digital economy and digital market in Ukraine and its further integration into the EU Digital Single Market Strategy [1].

In the scholarly research literature, the concept of “e-government” is characterized by three levels of conceptualization:

- public sector automation;
- implementation of New Public Management ideas;
- information state as a social institution of the information age [2, 21–22].

D. Osborne and T. Gaebler emphasize that the transition to the information state is to change the essence of the state on the basis of gradual evolutionary institutional changes, and it is necessary to study the structure of information flows in the system of public administration and their maintenance. The authors propose to use the term “electronic state” or “virtual state” to describe the technological transformations of all state power [3, 44].

According to J. Fountain, e-government is a transformation that is taking place under the influence of the Internet as a new channel of social and political interaction between the state and civil society. A specific tool for the functioning of the “virtual state” is a virtual agency that operates on the basis of web technologies and is presented in the form of a website or web portal [4, 71].

It should be added that the concept of “democratic e-government” involves the use of IT to organize the information processing process (web portals, electronic document management systems, geographic information systems), obtaining recommendations from citizens (electronic meetings and referendums, electronic polls and voting), electronic elections (not necessarily parliamentary or local government, it may be, for example, the election of members of public councils or supervisory bodies) [5, 45–47].

Ukraine’s state policy on e-government, based on various legal sources (laws, strategy, concept, regulations, government orders), is characterized by the gradual development and awareness of the importance of digitalization. In particular, the Law of Ukraine “On the Basic Principles of Information Society Development in Ukraine for 2007-2015” [6] emphasizes the use of information and telecommunications technologies to improve public administration, relations between the state and citizens, the formation of electronic forms of interaction between public authorities and local governments and individuals and legal entities. From the simple creation of web resources of various ministries and departments, containing information about their mission and activities, with some elements of interactivity, the state is moving towards the specification of e-government, including e-services, the formation of e-government based on common standards and open access to all services. One of the indicators of the development of e-democracy in the country should be electronic elections.

With the evolution of information and communication technologies, citizens are increasingly using tools such as e-consultations, e-petitions,

e-appeals, participation budgets (public budgets), e-platforms (combining several components), registries, mobile applications, and more. It is an axiom that online tools enable large-scale, fast and interactive dialogue between citizens and the authorities. The processes of decentralization, dissemination of e-government and e-democracy services in the regions provide local communities with a unique opportunity to implement the best IT solutions for effective governance and involve citizens in effective public policy making [7].

The formation of the modern concept of the “Digital State” is based on the transformation of public authorities, local governments, the provision of administrative services, the administration of justice, elections. Such a concept must be in line with national interests and based on their specifics. According to experts [8], it must be adapted to specific socio-economic, socio-cultural and political conditions, along with a fundamental change in the system of governance. Only conceptual systematization, procedural (regulatory) optimization and technological availability of existing resources (legal, institutional, technological) are the key to further development of e-government. Defining priorities through public discussion, raising the level of participatory literacy of citizens, involving the public in the process of development and decision-making, promoting proactivity and responsibility, strengthening public control tools and determining optimal forms of public feedback with public authorities, local governments, coverage potential and benefits of using IT tools – meets the trends and criteria of an open society.

The legal framework in the field of implementation and development of e-government is characterized by “diversity of norms, the presence of duplicate provisions and the lack of an effective practical mechanism for implementation” [9]. Legislative systematization will ensure the elimination of gaps in state regulation of public relations in this area, high-quality harmonization of the national legal system with generally accepted

international norms and principles on informatization and e-government.

Positive steps in the projection of e-government are the online service of a number of public services (Unified state web portal of electronic services “Portal Action” (“Portal Diya”) with the use of a mobile application), the introduction of electronic signatures, electronic document management in public authorities, local governments; digitization in jurisdictional proceedings or its individual stages (for example, securing the right to go to court by e-mail, submission of evidence, communication of participants in the process (parties), conducting court hearings via web resources and video conferencing). In particular, the application “State and I” (“Portal Action” (“Portal Diya”) was created in order to combine in a single electronic “window” all the services provided by the state to citizens and businesses; interaction of executive bodies in electronic form (The System of Electronic Interaction of Executive Bodies) is organized; the Unified Judicial Information and Telecommunication System was launched; introduced informational online portal about all services provided by executive authorities and local governments (“Guide to Public Services”), etc.

Creation of a full-fledged service platform for the provision of electronic services, departure from paperless circulation (paperless mode) is determined by the priorities of the modern state.

Thus, the efficiency and transparency of public administration directly depends on its digitization and implementation of the concept of “Digital State”, which has both achievements and some unresolved issues of regulatory and organizational and technical nature. Modernization of public administration with the help of information and communication technologies provides for: clarity and systematization of automated data exchange between state bodies, local governments, availability of information resources and their systematization; development of electronic document management; creation of information and telecommunication systems to support management

decision-making and automation of administrative processes in various spheres of public life.

Informatization of the judicial system is a component of the National Informatization Program of Ukraine [10].

Priority areas of informatization in this area are the development of network technologies for the judiciary, the introduction and improvement of electronic document management, the creation of automated systems for generalizing judicial practice and analysis of courts, updating the telecommunications structure of courts, creating a single judicial database.

E-justice is one of the important aspects of e-democracy as a component of the information society. A key element of e-litigation is the “e-court”, the essential concept of which is interpreted differently in the doctrine of Ukrainian law.

The term “electronic court” is used in two senses. In a narrow sense, it is a subsystem in the system of the Unified Judicial Information System of Ukraine, designed to ensure timely receipt of summonses and notifications of court proceedings and procedural documents adopted during the proceedings. Broadly, it is an independent unique form of litigation based on the latest information technologies that provide a full cycle of litigation in electronic format [11, 30].

The practice of e-justice is widespread in many developed democracies, including the United States, Canada, Britain, Italy, Germany, Austria, Poland, Switzerland and others.

A strong legal framework for the functioning of e-justice has been formed in a number of European countries. Thus, the European law contains more than thirty regulations, the provisions of which to some extent regulate the issue of electronic litigation. Among others they include as follows: Recommendations No. R (95) 11 of the Committee of Ministers of the Council of Europe to member states on the selection, processing, presentation and archiving of judgments in legal information retrieval systems (adopted by the Committee of Ministers on 11 September 1995 at its 543rd meeting) Deputy Ministers), Recom-

mendations No. R (95) 12 of the Committee of Ministers of the Council of Europe to member states on the administration of the criminal justice system (adopted by the Committee of Ministers on 11 September 1995 at the 543rd meeting of the Ministers’ Deputies), Recommendation Rec (2001) 2 of the Committee of Ministers Member States on the Construction and Restructuring of Judicial Systems and Legal Information in an Economic Way, Conclusion No. 2 (2001) of the Advisory Council of European Judges to the Committee of Ministers of the Council of Europe on the Financing and Management of Courts in the Context of Judicial Efficiency and Article 6, Recommendation Rec (2001) 3 of the Committee of Ministers of the Council of Europe to member states concerning other legal services using the latest technologies (adopted by the Committee of Ministers on 28 February 2001 at the 743rd meeting of the Ministers’ Deputies), Conclusion No. 7 (2005) of the Advisory Council of European Judges to the Committee of Ministers of Justice CM/Rec (2009) 1 of the Committee of Ministers of the Council of Europe to the member states of 18 February 2009 and others [12].

The development of new technologies has led to the development of the European Charter of Ethics for the use of artificial intelligence in the judiciary (2018), which, for the first time at the international level, enshrines ethical principles of artificial intelligence in the judiciary, even taking into account the subject matter of court cases [13].

Equally important documents of international law in terms of the introduction of e-justice are the “Guiding Principles of e-Justice”, adopted at the 28th plenary session on 6-7 December 2016 by the European Commission on the effectiveness of justice. To implement the practical application of the Guiding Principles of e-Justice, on June 13-14, 2019, there was adopted the relevant Toolkit that contains the following documents: “Summary of the main recommendations and principles for the implementation of e-Justice”; “Action Plan to support the development of IT strategy in the justice

system and its management”; “Action plan to support the development of a system for organizing the consideration of applicants’ cases from the user’s perspective”; “Checklist of steps and actions required for the design, development and implementation of an IT project in the justice system”; “Scale for assessing various aspects of the IT project”, etc. [14].

The importance of international European legislation is significant in terms of meaningful understanding of the ascending basic categories in the field of e-litigation. Thus, Recommendation CM/Rec (2009) 1 of the Committee of Ministers of the Council of Europe of 18 February 2009 [15] regulates the concept of “electronic justice”, which is proposed to mean the use of information and communication technologies in the administration of justice by all stakeholders in legal matters in order to improve the efficiency and quality of public services, in particular for individuals and businesses. Therefore, the essence of e-justice is electronic communication and exchange of relevant information data by participants in the trial, thus providing access to information of a judicial nature.

The experience of e-justice in other countries needs to be analyzed, given its possible use in the formation of the legal framework of e-justice in Ukraine.

In particular, the functioning of information technology in the UK legal system deserves attention. For example, e-litigation measures have been systematically introduced into the UK legal system for the last forty years in a row. At present, the judicial system of this state, as well as judges, businessmen and ordinary citizens, is accustomed to remote participation in court hearings, including cross-examination, objections, testimony, etc. In the summer of 2013, the British government presented a program to reform the criminal justice system called “Swift and Sure Justice”. Its core is the maximum digitalization of the trial. The experiment was conducted in the Birmingham Magistrate’s Court – the busiest in the country. The meaning of the experiment was

that the technologies used (video conferencing, digital presentations, wireless networks) were purposefully combined in one criminal process. Surveillance camera footage obtained within two hours was presented by the prosecution in court. On the basis of this evidence, the accused immediately pleaded guilty. In addition, British judges can pass sentences on Skype and Facetime, i.e. make online decisions to take the defendant into custody, as well as pass sentences of imprisonment. Thanks to the “live communication” system, judges can make decisions at preliminary hearings. In particular, we are talking about the appointment of bail for dismissal. According to representatives of the British judicial system, these innovations will save time and money spent on the road to court and the transportation of defendants in specially equipped vehicles. Such changes will also relieve juvenile witnesses and victims who have suffered psychological trauma from being in the courtroom with criminals.

The idea of an e-court in the UK civil justice system is also being promoted by the Civil Justice Council. For example, in London, work is underway to create a single system of online courts, the online dispute resolution system that allows finding alternative, out-of-court dispute resolution for the parties much more often than usual. In the three stages of an online dispute, the parties can resort to conciliation at any time, which the computer will constantly remind them of. The developers of the reform plan to hire law students who, if necessary, will be able to provide technical support by phone or in person for citizens who do not know how to use the Internet [16].

In the United States, the electronic court system with free access – PACER, which allows obtaining information about the court document, reading the register of applications, studying the progress of the case and the history of decisions, as well as viewing the calendar of scheduled hearings. The CM/ECF application in the form of a personal account is used to submit documents to the courts, access to which is provided by a state-issued password, and all documents must be sent

in pdf format. The formed “Electronic archive of cases” allows a person to get information related to litigation almost instantly for acquaintance.

In Canada, the court, at the request of a party to the proceedings, may decide to conduct electronic litigation. At the same time, the parties themselves should indicate how best to hold meetings and what technologies to use. The paperless system of justice is widespread in Canadian courts of all instances and provides for the use of online filing, electronic access to court records, disclosure of information and the use of technology in the courtroom.

German e-litigation provides that the submission of documents, their processing and decision-making takes place in electronic format. With the help of a paid personal account, it is possible to enter into a discussion with the opponent in writing and challenge the documents provided by him [17].

Given the affinity of legal systems, the acceptable format for the introduction of electronic justice in Ukraine is the experience of Poland. The e-court system has been gradually being introduced in this country for more than ten years. The scope of application of e-justice in Poland is introduced selectively and the criterion of such selectivity is the subject of litigation, namely: commercial, labor, tax, credit and other financial disputes. Resolving these issues does not require the direct presence of the plaintiff, defendant, third parties, witnesses, experts and other participants in the trial in the courtroom. The court may resolve the dispute on the basis of available documents and other case materials, or with the involvement of participants in the trial online [18].

Thus, the prospects and objective necessity of e-litigation are obvious. This is extremely important for modeling electronic litigation and defining procedural rules for the use of e-tools in litigation.

The first steps of the transition to electronic litigation are taking place in Ukraine. Prerequisites for the introduction of “electronic court” as a form of litigation are: proven information tech-

nology that provides fast and secure communication between participants in the implementation of legally significant transactions; the experience of foreign countries that have fully introduced such information technologies in the judiciary; the legal framework that initiated the movement in the direction of informatization of various public relations, including judicial ones; experience of functioning of this normative base; strategic vision of the need to reform the domestic judiciary in the direction of introducing a full-fledged “electronic court”; the corresponding request of society; readiness of the judicial system.

Of particular relevance are research developments in the study of the following elements of electronic justice: the possibility of full-fledged two-way communication between the court, litigants and all other interested parties through modern electronic information and communication technologies; recognition of existing electronic information resources as appropriate and fully admissible evidence in court proceedings; expediency of committing in electronic format all procedural actions in all types of proceedings.

It is widely believed that e-litigation, compared to traditional, will more guarantee access to justice, speed of court proceedings, promote the quality of court decisions, control the parties and save costs, increase the adversarial and publicity of litigation [17].

There are three phases of e-justice development. The first is the use of information technology for general information about the organization and activities of the judicial system (mainly the creation of a website for each court, electronic mailings, electronic kiosks in court, etc.). There is no feedback from users of court services with the subjects of their provision. The second is the use of information and communication technologies to provide certain individual services related to litigation (for example, to inform about the progress of a particular case, to send calls and notifications, to pay court fees, etc.). The third phase is the use of these technologies to conduct the trial as a whole or its individual stages: ensur-

ing access to court by e-mail and submission of evidence, communication of the parties with the court, including hearings by videoconference [19, 69–70].

Studying the possibility of full-fledged two-way communication between the court, participants in the trial and all other stakeholders with the help of modern electronic information and communication technologies; recognizing the full range of electronic information resources available today as appropriate and fully admissible evidence in court proceedings; and considering the possibility of committing all procedural actions in electronic format during the consideration of any court cases [17] remain relevant for research development of elements of electronic litigation.

The system of e-justice, being one of the elements of e-government, is considered as a way of organizing public power through information networks, which ensures the functioning of government in real time and makes it as simple and accessible daily communication with citizens, legal entities and non-governmental organizations. In this context, e-litigation can be defined as the use of modern information technology in litigation.

The legal framework of e-justice is standardized in a number of general legislative acts in the field of electronic document management. In particular, the Law of Ukraine “On Electronic Documents and Electronic Document Management” defines the concept of electronic document and electronic document management, establishes the recognition of the legal force of electronic documents, provides for the rights, duties and responsibilities of electronic document management [20]. The Law of Ukraine “On Electronic Trust Services”, on the basis of which the Law of Ukraine “On Electronic Digital Signature” repealed, defines the legal and organizational principles of providing electronic trust services, including cross-border, rights and obligations of legal entities in the field electronic trust services, the procedure for state supervision (control) over compliance with the requirements of legislation

in the field of electronic trust services, as well as legal and organizational principles of electronic identification [21]. In contrast to the Law on Electronic Documents and Electronic Document Management, the provisions of the Law on Electronic Trust Services mention the court in the context of: appealing in court against actions or omissions of providers of electronic trust services and bodies regulating state regulation in the field of electronic trust services (part 1 of Article 12); administration of justice using a qualified electronic signature or seal or other means of electronic identification (Article 17, paragraph 5); use of electronic signature or seal as evidence in court cases (part 3 of Article 18); committing a transaction in electronic form (part 5 of Article 23); entry into force of certain court decisions (Article 25), etc.

Another general legislative act “On Telecommunications” [22] defines the powers of the state to manage and regulate these activities, as well as the rights, obligations and responsibilities of individuals and legal entities that participate in these activities or use telecommunications services. For the first time in the domestic legislation the terms “Internet”, “Internet address”, “Internet address space”, “UA domain”, etc. are defined in it. The special normative acts that introduce certain elements of the “electronic court”, are as follows.

The Law of Ukraine “On the Judiciary and the Status of Judges” [23] declares the obligation to introduce an electronic court; implementation of measures to organize the exchange of electronic documents between courts and other state bodies and institutions (Articles 147, 152). The electronic form of communication is also enshrined (part 5 of article 64, part 7 of article 85, part 2 of article 86, part 3 of article 95-1, part 3 of Article 47), the High Qualification Commission of Judges of Ukraine (part 5 of Article 92)).

The Law of Ukraine “On Access to Court Decisions” [24] introduces the obligation to openly publish all court decisions in electronic form (Article 2). In addition, it is stated that the Unified

State Register of Court Decisions is an automated system for collecting, storing, protecting, accounting, searching and providing electronic copies of court decisions (Part 2 of Article 3). We are also talking about electronic copies, electronic databases, e-mail.

Provision of information, documents in electronic form is established by the Laws of Ukraine “On the High Council of Justice” [25], “On Ensuring the Right to a Fair Trial” [26], among other things, increased openness of judges, because everyone was able to videotape the trial hearings without special court permission, and all court decisions without exception must be published in a single state register.

Information stored on electronic media, obtained by a lawyer during the practice of law, is classified as a lawyer’s secret (part 1 of Article 22 of the Law of Ukraine “On the Advocacy and Advocacy” [27]).

Procedural codes of Ukraine, as well as bylaws, in particular the Regulations on the Unified Judicial Information System of Ukraine, approved by the Council of Judges of Ukraine, the Regulations on the automated court document management system, contain numerous rules governing the functioning of electronic justice. In particular, the procedural part of the Code of Ukraine on Administrative Offenses operates with such concepts as “electronic form of the document”, “electronic digital signature”, “electronic register” (regarding the peculiarities of cases of administrative offenses in the field of road safety).

The Criminal Procedure Code of Ukraine uses the following terms: “electronic archive”, “electronic documents”, “electronic media”, “electronic information systems”, “electronic means”, “electronic communications”, “electronic form of court decision”. Some provisions are devoted to the use of electronic means of control (Article 195), the removal of information from electronic information systems (Article 264). The basis for the subject of state registration of legal entities, natural persons – entrepreneurs and public formations of the court decision that has entered

into force, is determined by its copy in electronic form (Article 535).

Among the requirements for procedural documents submitted to the court (applications, complaints, etc.), although not mandatory (if any), is the e-mail address of the applicant, which certifies the possibility of electronic communication.

The Law of Ukraine “On Amendments to Some Legislative Acts Aiming at Providing Additional Social and Economic Guarantees in Connection with the Spread of Coronavirus Disease (COVID-2019)” [28] amended procedural codes regarding the right of courts to hold court hearings remotely – outside courtrooms by videoconferencing with identification by electronic digital signature or in the manner prescribed by the Law of Ukraine “On the Unified State Demographic Register and documents proving the citizenship of Ukraine, identity or special status.” And on April 8, 2020, the State Judicial Administration of Ukraine issued Order No. 169 “On approval of the procedure for working with technical means of videoconferencing during a court hearing in administrative, civil, economic proceedings with the participation of the parties outside the court.”

Thus, the domestic legislation of Ukraine, in particular, the legislation that mediates the relevant procedural relations, which translates certain elements of justice into electronic mode has been gradually being amended.

A revolutionary shift on the way to e-court was the introduction of the Unified Judicial Information and Telecommunication System (UJITS) in accordance with the Law of Ukraine “On Amendments to the Commercial Procedural Code of Ukraine, Civil Procedure Code of Ukraine, Code of Administrative Procedure of Ukraine and other legislative acts” from 03.10.2017 No 2147-VIII [29].

The introduction of the Unified Judicial Information and Telecommunication System involves the translation of all court documents into electronic format, i.e. should ensure the exchange of documents (sending and receiving documents) in electronic form between courts, between the

court and litigants, as well as recording litigation and participation of litigants in court by video-conference (Articles 6, 14, 43, 223, 328 of the Commercial Procedural Code of Ukraine; Articles 14, 44, 248 of the Code of Civil Procedure of Ukraine; Articles 18, 229 of the Code of Administrative Procedure of Ukraine).

It should be noted that on December 1, 2018, the State Judicial Administration of Ukraine pursuant to paragraph 2 (Final Provisions) of Section 5 of the Law of Ukraine No. 2147-VIII announced the establishment and operation of the Unified Judicial Information and Telecommunication System. According to the announcement, the experimental operation of the system was to begin on March 1, 2019 as part of the following subsystems (modules): Unified Contact Centre of the Judiciary of Ukraine; The only subsystem for managing financial and economic processes; Official e-mail address (E-office); Official web portal "Judiciary of Ukraine"; Unified State Register of Court Decisions; Subsystem "Electronic Court"; Module "Automated distribution"; Module "Judicial Statistics".

Despite some steps in the development of e-justice, court services require the introduction of quality standards, reducing the formalities of court procedures, ensuring the possibility of participants in the process of remote electronic use of all procedural rights, eliminating the dissonance of information technology and procedural rules.

Nevertheless, it should be noted that the transition of domestic justice to the online mode requires not only legislative regulation, but also the appropriate technical equipment. It is the full-fledged launch of the e-court that is currently a priority for the judiciary of Ukraine.

Conclusions. The priority task of the judiciary of Ukraine is the full launch of e-court, in the

context of implementing the state policy of digitalization of justice, providing conditions for comprehensive human development, raising social standards of living, legal awareness and legal culture in society. Ukraine's duty as a social state governed by the rule of law that at the level of the Constitution has determined the irreversibility of the European course, requires digitalization of justice to be carried out in the context of state policy to overcome poverty, provide conditions for comprehensive human development, culture in society, etc.

Conceptually and technically, Ukraine is following the path of Digital 5. Regulatory approaches to the digitalization of the judiciary provide for the implementation of the following opportunities: providing two-way communication between the court, litigants and all other interested parties through modern electronic information and communication technologies; recognition of electronic information resources and electronic transactions as appropriate and admissible evidence in court proceedings; performing all procedural actions in electronic format.

In order to improve the legal basis for modeling the trial in Ukraine, the following issues need to be addressed: 1) access to court by videoconference for the parties to the case; 2) use of all possible (existing) messengers for communication with the court; 3) appeal to the court (submission of documents) exclusively in electronic form; 4) remote form for jurisdictional proceedings; 5) remote access to court records for all employees; 6) the possibility of signing the text of the decision without a personal presence in court (electronic signature); 7) automatic distribution of cases between all judges of Ukraine of the relevant specialization (departure from territorial jurisdiction).

REFERENCES

1. On Approval of the Concept of E-government Development in Ukraine: Order of the Cabinet of Ministers of Ukraine from 20.09.2017. No 649-r. URL: <https://zakon.rada.gov.ua/laws/show/649-2017-%D1%80#Text> (Last accessed: 15.10.2021) [in Ukrainian].
2. Bellamy, C., Taylor, J. (1998). *Governing in the Information Age*. Buckingham: Open University Press.
3. Osborne, D., Gaebler, T. (1992). *Reinventing Government. How Entrepreneurial Spirit is Transforming the Public Sector*. New York: Addison Wesley.
4. Fountain, J. E. (2001). *Building the Virtual State: Information Technology and Institutional Change*. Washington: Brookings Institution Press.
5. Anttiroiko, A.-V. (2004). Introduction to Democratic E-Governance. *eTransformation in Governance: New Directions in Government and Politics*, 24, 22–50.
6. On the Basic Principles of Information Society Development in Ukraine for 2007–2015: Law of Ukraine from 09.01.2007. No 537-V. URL: <https://zakon.rada.gov.ua/laws/show/537-16#Text> (Last accessed: 15.10.2021) [in Ukrainian].
7. Prikhodko, H., Emelyanova, A., Loboyko, S., Khutky, D., Kushnirenko, T. (2018). *Index of local e-democracy in Ukraine: a pilot study*. Kyiv. URL: <https://cid.center/wp-content/uploads/2019/09/E-Dem-Index-2018.pdf> (Last accessed 15.10.2021) [in Ukrainian].
8. Chukut, S. A., Klimenko, I. V., Linyov, K. O. (2016). *Electronic Government. Scientific and practical guide*. URL: <https://ktpu.kpi.ua/wp-content/uploads/2016/02> (Last accessed: 15.10.2021) [in Ukrainian].
9. Baregamyán, S. Kh. (2019). *E-government at the national, regional and local levels: current status and prospects for implementation in Ukraine*. URL: http://www.dy.nayka.com.ua/pdf/11_2019/32.pdf (Last accessed: 15.10.2021) [in Ukrainian].
10. On the National Informatization Program: Law of Ukraine from 04.02.1998. No 74/98-VR. URL: <https://zakon.rada.gov.ua/laws/show/74/98-%D0%B2%D1%80#Text> (Last accessed: 15.10.2021) [in Ukrainian].
11. Brintsev, O. V. (2016). *“Electronic Court” in Ukraine. Experience and prospects*. Kharkiv: Law [in Ukrainian].
12. European and international standards in the field of justice. (2015). Kyiv [in Ukrainian].
13. CEPEJ has adopted a Toolkit for the implementation of e-Justice principles. URL: <https://court.gov.ua/press/news/790085> (Last accessed: 15.10.2021) [in Ukrainian].
14. The European Commission on the Efficiency of Justice has adopted a toolkit for the introduction of e-justice. URL: <https://ukrainepravo.com/news/> (Last accessed: 15.10.2021) [in Ukrainian].
15. Recommendation CM/Rec (2009) 1 of the Committee of Ministers of the Council of Europe to the member states of 18 February 2009. URL: <http://www.coe.int/t/dgap/democracy/Activities/GGIS/CAHDE/2009/RecCM2009> (Last accessed: 15.10.2021).
16. URL: <http://www.unba.org.ua/publications/5139-realizaciya-idei-elektronnogo-sudochinstva.html> (Last accessed: 15.10.2021) [in Ukrainian].
17. Electronic court – the current state and ways to improve. URL: http://dspace.nlu.edu.ua/bitstream/123456789/12752/1/Brincev_296-326.pdf (Last accessed: 15.10.2021) [in Ukrainian].
18. Electronic litigation: the experience of Europe. URL: <https://loyer.com.ua/uk/elektronne-sudochynstvo-dosvid-yevropy/> (Last accessed: 15.10.2021) [in Ukrainian].
19. Zaplotinsky, B. A. (2018). *Electronic litigation*. Odessa. URL: <http://dspace.onua.edu.ua/bitstream/handle/11300/11107/%D0%95%D0%A1%20%D0%BA%D0%BE%D0%BD%D1%81%D0%BF%D0%B5%D0%BA%D1%82%20%D0%BB%D0%B5%D0%BA%D1%86%D1%96%D0%B9.pdf?sequence=1&isAllowed=y> (Last accessed: 15.10.2021) [in Ukrainian].
20. On Electronic Documents and Electronic Document Management: Law of Ukraine from 22.05.2003. No 851-IV. URL: <https://zakon.rada.gov.ua/laws/show/851-15> (Last accessed: 15.10.2021) [in Ukrainian].
21. On Electronic Trust Services: Law of Ukraine from 05.10.2017. No 2155-VIII. URL: <https://zakon.rada.gov.ua/laws/show/2155> (Last accessed: 15.10.2021) [in Ukrainian].
22. On Telecommunications: Law of Ukraine from 18.11.2003. No 1280-IV. URL: <https://zakon.rada.gov.ua/laws/show/1280-15> (Last accessed: 15.10.2021) [in Ukrainian].
23. On the Judiciary and the Status of Judges: Law of Ukraine from 02.06.2016. No 1402-VIII. URL: <https://zakon.rada.gov.ua/laws/show/1402-19> (Last accessed: 15.10.2021) [in Ukrainian].
24. On Access to Court Decisions: Law of Ukraine from 22.12.2005. No 3262-IV. URL: <https://zakon.rada.gov.ua/laws/show/3262-15> (Last accessed: 15.10.2021) [in Ukrainian].

25. On the High Council of Justice: Law of Ukraine from 21.12.2016. No 1798-VIII. URL: <https://zakon.rada.gov.ua/laws/show/1798-19> (Last accessed: 15.10.2021) [in Ukrainian].
26. On Ensuring the Right to a Fair Trial: Law of Ukraine from 12.02.2015. No 192-VIII. URL: <https://zakon.rada.gov.ua/laws/show/192-19> (Last accessed: 15.10.2021) [in Ukrainian].
27. On the Advocacy and Advocacy: Law of Ukraine from 05.07.2012. No 5076-VI. URL: <https://zakon.rada.gov.ua/laws/show/5076-17> (Last accessed: 15.10.2021) [in Ukrainian].
28. On Amendments to Some Legislative Acts Aiming at Providing Additional Social and Economic Guarantees in Connection with the Spread of Coronavirus Disease (COVID-2019): Law of Ukraine from 30.03.2020. No 540-IX. URL: <https://zakon.rada.gov.ua/laws/show/540-IX> (Last accessed: 15.10.2021) [in Ukrainian].
29. On Amendments to the Commercial Procedural Code of Ukraine, Civil Procedure Code of Ukraine, Code of Administrative Procedure of Ukraine and Other Legislative Acts: Law of Ukraine from 03.10.2017. No 2147-VIII URL: <https://zakon.rada.gov.ua/laws/show/2147-19> (Last accessed: 15.10.2021) [in Ukrainian].

Received 18.10.2021
Revised 30.12.2021
Accepted 14.01.2022

*T.M. Barabash*¹ (<https://orcid.org/0000-0001-5541-2764>),
*I.O. Humeniuk*¹ (<https://orcid.org/0000-0003-4924-2927>),
*L.V. Levytska*¹ (<https://orcid.org/0000-0002-5897-7194>),
*O.V. Muza*² (<https://orcid.org/0000-0003-0869-2542>)

¹ Інститут законодавства Верховної Ради України,
пров. Несторівський, 4, Київ, 04053, Україна,
+380 44 235 9601, zak_norm@rada.gov.ua

² Академія адвокатури України,
бульв. Тараса Шевченка, 27, Київ, 01032, Україна,
+380 44 246 5788, referent@aau.edu.ua

ІННОВАЦІЙНІ ПІДХОДИ ДО МОДЕЛЮВАННЯ СУДОВОГО ПРОЦЕСУ В КОНТЕКСТІ Е-ДЕМОКРАТІЇ: ПЕРСПЕКТИВИ ДЛЯ УКРАЇНИ

Вступ. Інноваційні підходи у сфері цифровізації судової влади України передбачають розробку мережевих технологій, упровадження та удосконалення системи електронного судового документообігу, створення автоматизованих систем узагальнення судової практики та аналізу діяльності судів, оновлення телекомунікаційної структури судів, створення єдиної судової бази даних.

Проблематика. Актуальним науковим завданням є моніторинг «електронних інструментів» для моделювання судових процесів з метою повного, своєчасного, неупередженого, прискореного та ефективного розгляду судових справ, а також вироблення на цій основі пропозицій законотворчого та правозастосовного характеру.

Мета. Теоретичне осмислення ролі права та правозастосовної практики у процесі використання засобів електронної демократії у судочинстві.

Матеріали й методи. Логіко-юридичний, порівняльно-правовий, емпіричний, дедуктивний та системний методи аналізу розбудови електронного судочинства в Україні.

Результати. Проаналізовано сучасний стан упровадження Єдиної судової інформаційно-телекомунікаційної системи в Україні. Проведено правовий моніторинг законодавчої бази регулювання «електронного суду» в Україні.

Висновки. З метою удосконалення правових підстав моделювання судового процесу в Україні потребують вирішення такі питання: 1) доступу до суду у режимі відеоконференції для учасників справи; 2) використання для зв'язку із судом усіх можливих (існуючих) месенджерів; 3) звернення до суду (подача документів) виключно в електронній формі; 4) дистанційної форми для юрисдикційних проваджень; 5) дистанційного доступу до діловодства суду для усіх працівників; 6) можливості підписання тексту рішення без особистої присутності у суді (електронний підпис); 7) автоматичного розподілу справ між усіма судьями України відповідної спеціалізації (відхід від територіальної підсудності).

Ключові слова: електронна демократія, електронне урядування, електронний суд, електронне судочинство, моделювання судового процесу, Єдина судова інформаційно-телекомунікаційна система, режим відеоконференції.