

Organizational and legal aspects of digitalization of public authorities in Ukraine

Aspectos organizativos y legales de la digitalización de las autoridades estatales en Ucrania

Maksym Pendiura(1); Alona Lukashenko(2); Oksana Lapka(3); Valeriia Kryvenko(4); Denys Tykhomyrov(5); Inna Savelieva(6)

- 1 Candidate of legal sciences, Associate Professor, Manager of the Department of Theory of State and Law of National academy of Internal Affairs, Kyiv (Ukraine).
E-mail: Macsim.ipad21@gmail.com | ORCID ID: <https://orcid.org/0000-0002-3589-0184>
- 2 Candidate of legal sciences, Associate Professor, Associate Professor of the Department of Public Administration of National academy of Internal Affairs, Kyiv (Ukraine).
E-mail: lukashenko.a.2017@gmail.com | ORCID ID: <https://orcid.org/0000-0002-7623-9144>
- 3 Candidate of legal sciences, Associate Professor, Associate Professor of the Department of Theory of State and Law of National academy of Internal Affairs, Kyiv (Ukraine).
E-mail: lapkaoksana1@gmail.com | ORCID ID: <https://orcid.org/0000-0002-7017-1273>
- 4 Postgraduate student of the Department of Theory of State and Law of National academy of Internal Affairs; Inspector of Department of Preventive Communication of Department of Preventive Communication of General Directorate of the National Police in Ukraine, Kyiv (Ukraine).
E-mail: lerakryv@gmail.com | ORCID ID: <https://orcid.org/0000-0003-4972-5195>
- 5 Doctor of Juridical Sciences, Associate Professor of the Department of Theory of State and Law of National academy of Internal Affairs, Kyiv (Ukraine).
E-mail: beleg85@gmail.com | ORCID ID: <https://orcid.org/0000-0001-8366-8564>
- 6 Candidate of legal science, Associate Professor at the Department of Criminal Procedure and Criminalistics, Odesa State University of Internal Affairs, Odesa (Ukraine).
E-mail: 7005598@gmail.com | ORCID ID: <https://orcid.org/0009-0003-8747-3950>

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Abstract

The scientific work is dedicated to highlighting the organizational and legal aspects of digitalization of state authorities in Ukraine. It is noted that these public relations in the conditions of global digital transformation structurally consist of relations arising in connection with the implementation of executive and administrative activities of state authorities, the provision of electronic administrative services and the provision of rights and freedoms of citizens through the use of information and communication technologies. It is indicated that the key imperatives of state management of digital development are end-to-end digitalization, promotion of the development of the information society, stimulation of international digital cooperation, provision of information and communication technologies to all segments of the population, formation of digital skills, provision of digital security and protection of digital rights and freedoms of citizens. Prospective directions for strengthening the digital capacity of state authorities and improving their communication capabilities in Ukraine were identified, and the importance of the appropriate modern legal basis for the system of digitization of state authorities and state administrative services was emphasized.

Keywords: information society, information and communication technologies, state authorities, digitization, provision of administrative services.

Resumen

El trabajo científico está dedicado a resaltar los aspectos organizativos y legales de la digitalización de las autoridades estatales en Ucrania. Cabe señalar que estas relaciones públicas en las condiciones de la transformación digital global consisten estructuralmente en relaciones que surgen en relación con la implementación de actividades ejecutivas y administrativas de las autoridades estatales, la prestación de servicios administrativos electrónicos y la garantía de los derechos y libertades de los ciudadanos a través de la uso de las tecnologías de la información y la comunicación. Se indica que los imperativos clave de la gestión estatal del desarrollo digital son la digitalización de extremo a extremo, la promoción del desarrollo de la sociedad de la información, el estímulo de la cooperación digital internacional, la provisión de tecnologías de la información y la comunicación a todos los segmentos de la población, la formación de capacidades digitales, provisión de seguridad digital y protección de los derechos y libertades digitales de los ciudadanos. Se identificaron posibles direcciones para fortalecer la capacidad digital de las autoridades estatales y mejorar sus capacidades de comunicación en Ucrania, y se destacó la importancia de una base jurídica moderna y apropiada para el sistema de digitalización de las autoridades estatales y los servicios administrativos estatales.

Palabras clave: digitalización, democracia electrónica, autoridades estatales, sociedad civil, tecnologías digitales.

1 Introduction

The rapid development of information technologies and the increase in the amount of information lead to the adaptation of all spheres of society to a new, faster pace of work. Governance, smart technologies, medical records and other personal information are increasingly dependent on digital networks and databases. Digitization is one of the defining trends in the development of human civilization, which forms a more inclusive society and better governance mechanisms, expands access to health care, education and banking, increases the quality and coverage of public services, and expands the way people cooperate. And the Covid-19 pandemic proved the importance and necessity of digital technologies for the well-being of the population and the development of economies (Markevich, 2021).

Today, the widespread use of digital technologies can be seen in all areas of life, because: their exponential decrease in cost in combination with available cloud services reduces the capital investment required to carry out activities; their application reduces costs, increases productivity and decision-making efficiency; they become cheaper and, accordingly, more accessible thanks to free content and services; they can be used to create unique products (Markevich, 2021).

The rapid implementation of information and communication technologies will contribute to the formation of Ukraine as a full-fledged digital state on a par with other developed states. Their implementation and intensification should be the basis of transformational changes aimed at ensuring: human development, development of health care, education, culture, industry and other spheres of life, new forms of human-state relations. In this context, the most important task of law as a science has become the development of a model of legal regulation of digital technologies, which will make it possible to maintain a balance between the preservation of fundamental social and legal values and the unimpeded development of innovative technologies aimed at improving the quality of life. After all, the digitalization process, which contributes to the formation of a new type of state focused on meeting the needs of citizens, has become a new challenge for the development and formation of the legal system at the current stage, which requires a comprehensive theoretical study and justification.

The importance of the development of this sphere and the potential benefit of new technological solutions were demonstrated by the events in Ukraine in 2022. Due to the presence of certain proven mechanisms with the introduction of hotlines and web resources by public authorities, during the martial law it was possible to quickly create working mechanisms both for solving the problems of the civilian population (collecting applications for evacuation, humanitarian aid) and for carrying out a number of military tasks (informing about sabotage and reconnaissance groups and enemy equipment).

Digital technologies in the field of public administration are the basis of its transformation and a potential example of how to use the advantages of digitalization. Therefore, at the legislative level, the priority direction of state policy is the implementation of information, communication and digital technologies in the activities of public authorities and local governments. It is the digitization of the communicative component in the activities of public authorities and state processes that is gaining relevance for Ukraine in modern realities. The mentioned problems require further research taking into account modern challenges: the introduction of martial law, the emergence of communication problems between state authorities and certain categories of persons, etc.

2 Methodology of the study

The methodological basis of the research is a set of general scientific and special methods and techniques of scientific knowledge, the practical application of which made it possible to obtain scientifically based conclusions. The basic methodological basis of the scientific article is the dialectical method, which made it possible to reveal the subject of research systematically, fully, in the dynamics and interconnection of its structural components.

The work uses a formal-logical method, which is aimed at researching the main concepts; system-structural method, which made it possible to classify legal acts that regulate digital transformation in Ukraine. The logical research method determined the sequence of presented judgments and conclusions. Its application made it possible to formulate certain basic concepts and categories. The application of dialectical and structural-logical methods made it possible to investigate the tools of state authorities through which their activities in the field of digital transformation are implemented and to identify the main problems of their application. Modeling and forecasting methods were used in the development and formulation of directions for improvement and practical principles for increasing the efficiency of the activities of state authorities. Complex application of the specified methods ensured the completeness and objectivity of the provisions given in the scientific article.

3 Analysis of recent research

Despite a fairly wide range of scientific research works and practical developments on the issues of digitalization and digital transformation, in the context of rapid reform and updating of legislation, the logic of previous scientific research and the interests of practice determine the urgency of the need to solve at the scientific level a number of debatable issues related to the functioning of state bodies power in new digital

conditions, the scientific “basis” for which was the works in the field of theory of the state and law, constitutional law, administrative law and process, and other branches of legal sciences.

The implementation of the latest information technologies in the activities of state authorities requires both proper and timely legislative fixation (since otherwise there will be no legal grounds for their use by state authorities), and sound scientific research.

In the scientific article, we set the goal of researching domestic and foreign best practices in order to identify effective tools for the digitalization of communicative interaction of public authorities in Ukraine, to clarify the legal basis of the digitalization of these entities in today’s conditions.

4 Results and discussion

The following digital trends in technology development are highlighted: data is becoming the main source of competitiveness; the field of the Internet of Things is developing; digitization or digital transformations are taking place; business models belonging to the sharing economy ideology are spreading; there is virtualization of physical infrastructure IT systems, as well as a transition to service models (Digital Agenda of Ukraine - 2020).

The development of digitalization of public management and administration has become possible thanks to the creation of telecommunication infrastructure and the corresponding human resource that can use all its advantages. The increase in the number of technical means and Internet users increased the number of potential users of online portals, which, in turn, became an impetus for the development of digitalization of communicative interaction and the transition to another level of communicative interaction of state authorities and citizens. Now this allows us to outline the need for public servants to acquire certain competencies in information literacy.

Successes in the digitalization of communication interaction and the use of modern communication and information devices in the modern world have created new forms of management interaction in public authorities, thanks to which accuracy, speed, quality and transparency have increased, as well as reduced time consumption. Analyzing how digital technologies and innovations affect the public sector and change people’s daily lives, it is safe to say that the digitalization of public authorities has far-reaching potential for countries: improving institutional and work processes for more efficient delivery of administrative services, as well as ensuring inclusion, participation and accountability.

The main goal of digitization is to achieve the digital transformation of existing and the creation of new sectors of the economy, as well as the transformation of spheres of life into new, more efficient and modern ones (Decree of the Cabinet of Ministers

of Ukraine No. 67-r, 2018). The essence of digital transformation is to simplify routine processes by automating them. Considering global trends, digital transformation is an irreversible process.

In general, the functional types of e-government activities can be divided into four components (Semenchenko and Dreshpak, 2017): G2G (“government-government”) (“government to government”) - the sector of electronic interaction between authorities; G2B (“government - business”) (“government to business”) - the sector of electronic interaction between public authorities and business entities; G2C (“government to citizens”) - sector of electronic interaction between public authorities and citizens; G2E (“government to employees”) (“government to employees”) - the sector of automation of processes of cooperation of the government system with employees, officials, consultants on the ground.

In the conditions of digital transformation, it is possible to group public relations as follows: public relations arising in connection with the implementation of executive and administrative activities of public administration subjects in the field of digital transformation; public relations arising in connection with the provision of electronic administrative services; social relations arising in connection with bringing a person to administrative responsibility with the use of information and communication technologies; social relations arising in connection with ensuring the rights and freedoms of citizens through the use of information and communication technologies.

The implementation of the state policy of digital development is based on the following principles:

- ♦ openness, i.e. provision of open access to departmental data (information), unless otherwise established by legislation;
- ♦ transparency, which consists in ensuring the possibility of using open external interfaces to departmental information systems, including application programming interfaces;
- ♦ multiple use, which consists in ensuring open interdepartmental exchange of solutions and their reuse;
- ♦ technological neutrality and portability of data, i.e. in ensuring access to departmental services and data and re-use regardless of technologies or their products;
- ♦ citizen orientation, i.e. ensuring priority consideration of citizens’ needs and expectations when making decisions regarding the forms or methods of performing state functions;
- ♦ inclusiveness and accessibility, which consists in ensuring the opportunity for all citizens to use the latest advances in information technologies to access services;
- ♦ safety and confidentiality, i.e. in providing citizens and business entities

with a safe and reliable environment in which electronic interaction with the state takes place, including its full compliance with the rules and requirements established by the laws of Ukraine regarding the protection of personal data and information belonging to the state, electronic identification and trust services;

- ♦ multilingualism, which consists in providing citizens and business entities with administrative, information and other services, including cross-border services, using the language of their choice;
- ♦ decision-making support, which consists in ensuring the use of the latest information technologies for the development of software products that support decision-making by executive authorities during the exercise of authority;
- ♦ assessment of efficiency and effectiveness, i.e. in conducting a comprehensive assessment and comparison of at least two alternative solutions to ensure the efficiency and effectiveness of the exercise of authority, etc. (Some issues of digital development, 2019).

In accordance with the Directive of the European Parliament and the Council of the European Union No. 2018/1972, the management of the implementation processes of information and telecommunication technologies by the competent authorities should be carried out in accordance with the generally accepted tasks, namely: to facilitate the connection and access to ultra-high bandwidth networks, including fixed, mobile and wireless networks , as well as their use by all citizens and enterprises; promote competition in the provision of electronic communication networks and related facilities, including effective infrastructure-based competition, as well as in the provision of electronic communication services and related services; to contribute to the development of the internal market by removing remaining obstacles and promoting convergent conditions by investing in and providing electronic communication networks, electronic communication services, related facilities and related by developing common rules and predictable regulatory approaches, promoting effective , efficient and coordinated use of radio frequency spectrum, open innovation, provision, availability and interoperability of services, as well as end-to-end connectivity; promote the interests of citizens by ensuring connectivity, wide availability and use of ultra-high-bandwidth networks, including fixed, mobile and wireless networks, as well as electronic communication services, providing the opportunity for maximum benefit in terms of choice, price and quality based on effective competition, supporting the security of networks and services, ensuring a high overall level of protection for end-users through the necessary industry regulations and meeting the needs, such as affordability, of specific social groups, in particular end-users with disabilities, elderly end-users and end-users with special social needs,

and as well as choice and equal access for end-users with disabilities (Directive of the European Parliament and the Council (EU) 2018/1972).

In recent years, dozens of draft laws have been developed in Ukraine, which to some extent relate to this field of digital and information communication technologies. In particular, the Decree of the Cabinet of Ministers of Ukraine “On the approval of the Strategy for the implementation of digital development, digital transformations and digitization of the State Finance Management System until 2025 and the approval of the plan of measures for its implementation” (On the approval of the Strategy for the implementation of digital development, digital transformations and digitalization of the State Finance Management System until 2025 and the approval of the plan of measures for its implementation, 2021).

The Resolution on the approval of the objectives of the National Informatization Program for 2022-2024 was also adopted, the result of which was the approval of the objectives of the program and ensuring the implementation of informatization in state authorities, in particular, this is digital development, the development of electronic government, information society, digital innovations and technologies in state institutions (On approval of the tasks of the national informatization program for 2022-2024, 2022).

Among all the variety of adopted normative legal acts, the following main areas of digitization of public authorities, reflected in these documents, can be identified: functioning and content of web resources and web pages; electronic services; participation of citizens in making management decisions; electronic document flow and electronic digital signature; protection of information and personal data.

The National Economic Strategy 2030 states that: “In addition to general digital competences, the low level of digital skills among civil servants remains a problem. The transition to electronic services in this area should be accompanied by a large-scale educational campaign for civil servants and specialists in the social sphere” (On the approval of the National Economic Strategy for the period until 2030, 2021).

“The concept of the development of digital competences and the approval of the plan of measures for its implementation” approved by the order of the Cabinet of Ministers of Ukraine provides for the formation and development of digital skills and digital competences in society by: acquiring digital education by a person using information resources, new educational technologies and digital educational resources aimed at increasing the level of digital skills and digital competences; ensuring the continuous development of professional digital competences for specialists in the advanced training system of various fields of activity; creation of the Unified state web portal of digital education; development of measures for the implementation of digital means of proving information (television, social networks, broadcasting on the Internet, etc.) (On the approval of the Concept of the development of digital competences and the approval of the plan of measures for its implementation, 2021).

Digitization extends to the sphere of providing administrative services with the help of Internet technologies. The main law in this area is the Law of Ukraine “On Administrative Services”. In his paragraph 1 of Art. 17 states that: “The provision of administrative services in electronic form and the access of subjects of appeal to information about administrative services using the Internet are provided by means of the Unified State Web Portal of Electronic Services, which is the official source of information on the provision of administrative services in Ukraine” (On administrative services, 2012). The adoption of the Law of Ukraine “On Electronic Trust Services” No. 2155-VIII contributes to the construction of a digital infrastructure of trust, which is an important element of the digital economy (Dukhovna, 2019).

The issues of the functioning of the Unified state web portal of electronic services (hereinafter - Action Portal) are regulated. In accordance with the provisions of the Regulation “On the Unified State Web Portal of Electronic Services No. 1137, the main tasks of the Diya Portal are: providing electronic services (including administrative and other public services), ensuring through the user’s electronic cabinet access to information from national electronic information resources, in particular about user; receipt by subjects of the application of the results of the provision of electronic services, consideration of applications and administrative cases; providing users with information about electronic and administrative services, as well as about other public services, the provision of which is carried out using the Diya Portal; submission of electronic appeals through the Diya Portal and others (The issue of the Unified State Web Portal of Electronic Services and the Register of Administrative Services, 2019). The process of obtaining electronic administrative services both with the help of the Diya Portal and through the websites of the Centers for the provision of administrative services takes place using a qualified electronic signature (Kovalyova & Gunbina, 2021).

Therefore, the issue of regulation of the sphere of digital transformations and the process of building a digital economy, the uncertainty of the nature of the interaction of the participants in this process, which in turn restrains the formation of legislation of another direction, in particular with regard to strategic planning documents, issues of the development of digital technologies should be presented in state programs, especially in those related to public services, small and medium-sized enterprises, the consumer market, health care, the creation of information and analytical systems for their provision, etc.

Military operations in Ukraine actualized the processes of digitalization of state authorities, accelerated certain processes of their communication with physical and legal entities. The digitalization process in Ukraine during the war was forced and unexpectedly received a powerful impulse for rapid development and moved to a new stage of its formation.

This stage foresees and requires new, accelerated pace of development, lack of time for approbation of new applications, as well as the introduction of the latest

advanced technologies, including satellite ones, such as Starlink (How Elon Musk's Starlink helps Ukrainian military and civilians, 2022). Yes, this state-of-the-art satellite communication is used, first of all, by the military to coordinate actions and identify the location of the enemy. However, it plays an important role today and for the civilian population. Thanks to Starlink, Ukrainians still have or have regained access to information. According to The Telegraph, the Starlink mobile application is one of the most popular in Ukraine. In this way, more than 100 thousand people can receive information about the development of hostilities and maintain contact with the outside world (How Elon Musk's Starlink helps Ukrainian military and civilians, 2022).

It is also currently possible to apply online for war-damaged property for compensation, as well as monetary compensation for the lost source of income for citizens in the areas most affected by the actions of the aggressor country. The "eDocument" application contains passport data of citizens and tax payer cards, which are extremely useful for citizens who have lost their documents during forced evacuation or are unable to access them (eDocument: a temporary digital document for the wartime period appeared in Diya, 2022).

Social relations arising in connection with ensuring the rights and freedoms of citizens through the use of information and communication technologies deserve special attention. An example is the implementation of the electronic petition institute in the practice of the Ukrainian state. The normative basis for regulating the submission of electronic petitions is the Law of Ukraine "On Appeals of Citizens" (Article 9) (On Appeals of Citizens: Law of Ukraine, 1996), accordingly, an electronic petition is a special form of collective appeal of citizens to the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, a local self-government body.

One of the important features of digitalization is the expansion of the influence of digital technologies and the blurring of boundaries between conventional borders - in other words, the globalization of the influence of digital technologies and the exchange of experience regarding the specifics of their implementation. In particular, together with European partners, the Ministry of Digital Transformation of Ukraine presented the international initiative "Digitality", which aims at the digital transformation of other countries and to strengthen cooperation between Ukraine and the countries of the world in digital solutions. The Digitality platform will help countries that want to implement digital products in state structures through the exchange of successful experiences of Ukraine, Estonia, Poland and other countries (Digital transformation beyond Ukraine: Ministry of Digital Affairs shares technological solutions with the world, 2023). A Memorandum of Cooperation was also signed between Ukraine and Finland to cooperate in the field of digitalization and digital sustainability (Ukraine and Finland will cooperate in the field of digitalization and digital sustainability - Memorandum signed, 2023), similar agreements are expected to be signed in the near future with other countries.

In general, the tools of public administration in conditions of digitalization must meet the following requirements: not go beyond the limits of the legality regime; meet the competence of the state authority; respond to the content of his powers; to contribute to public interest; take into account the specific features of a specific object of power influence.

In general, it should be noted that the legislation of Ukraine, which is burdened by the conditions of war and is directly related to the introduction and use of digital technologies in the activities of public authorities, despite its fragmentation and certain chaotic nature, creates legal grounds for the wide use of IT technologies in the state administration, electronic document circulation and electronic interaction of state authorities. At the same time, the regulatory, administrative, organizational, technical, and economic components of the digitalization process of public authorities need to be further improved in order to effectively implement internationally recognized digital tools for interaction between the state and civil society at the national, regional, and local levels.

The main obstacles to the implementation of certain ideas on the digitalization of state authorities are: complex bureaucratic processes; conservative approaches to document management; production of electronic communication equipment; partial destruction as a result of the production of cable products, which complicates logistics processes; the need for advanced training and retraining of a significant number of specialists in the field has been mobilized, replacement of qualified specialists; lack of guarantees for conducting IT activities and the difficulty of attracting foreign citizens as e-residents due to martial law; lack of state regulation of the virtual assets market; the outflow of startups and technological specialists abroad as a result of hostilities; lack of budgetary funding for cyber security projects; constant aggression against the country in cyberspace, which requires a response and limits resources for the implementation of cyber security projects; risks of physical destruction of infrastructure.

In addition, the low level of readiness for digitization of certain areas of management activity, as well as communication interaction, is due to the fact that not all public authorities have official web portals, which deprives the possibility of effective communication. Therefore, it is possible to improve this situation only by increasing the mass awareness of the population in the presence and functioning of the relevant platforms and overcoming the digital inequality, which can now be realistically eliminated by increasing the computer literacy of the population and partial modernization of the technical infrastructure of administrative institutions.

As evidenced by world experience, only a strong political will, aimed at achieving clear goals, enshrined in relevant strategies, programs, laws on the development and implementation of e-government, with appropriate amounts of financial resources, can positively influence the development of e-government in Ukraine. In our opinion, in the future, in accordance with the approved e-Governance Strategy until 2030,

appropriate state programs for the development of e-Government should be adopted with specific tasks, executors, indicators of task performance and amounts of funding for a specific period.

5 Conclusions

Social relations in the field of digital transformation structurally consist of relations that arise in connection with the implementation of executive and administrative activities of state authorities, the provision of electronic administrative services and the provision of rights and freedoms of citizens through the use of information and communication technologies.

The role of state administration in ensuring digital development and establishing communication with the population should be significantly strengthened through the implementation of an active state policy and the effective functioning of all state institutions, primarily the Ministry of Digital Transformation of Ukraine. The key imperatives of state management of digital development are end-to-end digitalization in all spheres of life, promotion of the development of the information society and acceleration of economic growth with the help of digital technologies, stimulation of international digital cooperation, provision of information and communication technologies to all segments of the population, formation of digital skills, provision of digital security and protection digital rights and freedoms of citizens.

Among the promising directions for strengthening the digital capacity of state authorities and improving their communication capabilities in Ukraine, the following should be singled out: implement digital audits and target studies to determine the available resources of state authorities in general and at the local level; development of a new concept and digital development plan, which determine the systematic and consistent implementation of digital tools; promotion of increasing the level of digital competence and literacy of employees and the population in general; overcoming digital inequality with the help of a complex of organizational and technical measures (creating the infrastructure of broadband Internet access throughout the country; forming a single information space; increasing the availability of modern services in the field of digital and telecommunication technologies for the population and organizations); solving the problem of insufficient funding and ensuring a secure digital environment.

The legal basis of the system of digitization of state authorities and state administrative services should be constituted and provided by legal acts, which should be reviewed and adjusted in accordance with today's conditions. With a systemic state approach, accompanied by the formation of an appropriate legal framework, digital technologies will stimulate the development of an open information society as one of

the important factors in the development of democracy in the country and improving the quality of life of citizens.

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