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## Digitization in Law: International- Legal Aspect

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### Abstract

Due to the development of the information society, countries face the task of effectively regulating the relevant social relations. The mechanisms of such regulation should correspond to the specifics of such relations. Digitization is one of the modern methods of legal regulation, which is the use of information technology at the state level. The existing scientific achievements on digitalization processes need constant improvement, which corresponds to the specifics of this field. The object of research is digitalization in law in the light of international experience. The article aims to study and analyze digitalization in law in the international legal aspect. The following methods were used during the study: systemic, systemic-functional, comparative, sociological, analysis, synthesis, analogy, observation, classification, and statistical analysis. The article analyzes the phenomenon of digitalization, identifies the main approaches to understanding it. On the example of international experience (such countries as France, Germany, Italy, Georgia, Greece, and Great Britain), the mechanisms of using digitalization in public administration are determined, the legal regulation of informatization is analyzed. Also, based on the study and analysis of doctrinal teachings of international information experience, it is proposed to improve the domestic legal mechanism to ensure the effective functioning of public relations.

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**Keywords:** digitization; legal regulation; information society; public administration; public relations.

## Digitalización en el derecho: aspecto jurídico internacional

### Resumen

La digitalización es uno de los métodos modernos de regulación legal, que es el uso de tecnología de la información a nivel estatal. Los logros científicos existentes en los procesos de digitalización necesitan una mejora constante, que corresponde a las especificidades de este campo. El tema de la investigación es la digitalización del derecho a la luz de la experiencia internacional. El artículo tiene como objetivo estudiar y analizar la digitalización en el derecho en el aspecto jurídico internacional. Durante el estudio se utilizaron los siguientes métodos: sistémico, sistémico-funcional, comparativo, sociológico, análisis, síntesis, analogía, observación, clasificación y análisis estadístico. El artículo analiza el fenómeno de la digitalización, identifica los principales enfoques para comprenderlo. En el ejemplo de la experiencia internacional (países como Francia, Alemania, Italia, Georgia, Grecia y Gran Bretaña), se determinan los mecanismos de uso de la digitalización en la administración pública, se analiza la regulación legal de la informatización. Asimismo, con base en el estudio y análisis de las enseñanzas doctrinales de la experiencia de la información internacional, se propone mejorar el mecanismo jurídico interno para asegurar el funcionamiento efectivo de las relaciones públicas.

**Palabras clave:** digitalización; regulación legal; sociedad de la información; administración pública; relaciones públicas.

### Introduction

In today's conditions, the priority of state activity is the digitalization of the spheres of life of the population. This direction is due to the development of the innovative society, digital technologies. The main trends in the development of modern foreign informatization are the steady growth of the information technology market, the growth of investments in informatization and the growth of profits from innovative technology products. The development of the information industry is associated with the use of the Internet. According to IDS experts, in 2020 the annual growth rate of Internet costs will reach 50%. (Kolesnikov, 2012).

International experience in implementing digitalization systems as a tool to ensure the realization of citizens' rights to effective, mobile, and unhindered communication with the system of providing, in particular, public services, protection of their interests, shows that the information policy depends on communication, from historical factors, political and economic development, and financial and material resources.

Thus, the activities of the British government to improve the conditions of competition in the data market, increase the efficiency of innovative services, and the introduction of IT in public administration. The goal of France's national information policy is to establish an information society, develop electronic market, and banking, liberalize communications, update its legislation, stimulate research in the field of IT business, create information security systems, and prevent computer crimes. For Italy, the characteristic features of information policy are monitoring of the sphere of online services, improvement of intra-network quality, evaluation of intellectual resources, the introduction of e-government, etc. (Ryabokon, 2016).

For the Scandinavian countries, the introduction of information technology is seen in the provision of the social sphere with computer technology, access to information in networks and systems for socially vulnerable groups, and attention is paid to support national producers of information products (Stepanov, 2010).

The Prime Minister of Estonia Kaya Kallas spoke at the All-Ukrainian Forum "Ukraine 30. Digitalization" about the benefits of digitalization. "Currently in Estonia, there are about 5,000 e-services in the public and private sectors, including e-voting, e-schools, e-hubs, we have digital signatures. All this saves Estonia a lot of time and money," said the Prime Minister (Ukrinform, 2021).

Researchers have developed a strategy for the transformation of public services through digitalization (HiTech Office, 2016):

- providing a system of recruitment of civil servants and lawyers based on skills in digital technologies.
- the use of social networks and communications to actively involve citizens in political processes.
- empowering citizens to participate in their own use of the concept of open data, according to which particular data should be free for use and dissemination by any person (subject to compliance with the relevant rules).
- the introduction of electronic identification to create a secure space that provides citizens with access to necessary resources or services.

It is also considered useful to manage smart machines and tools as an improvement of existing methods of doing business and creating new public services. Such new services should include, for example, automatic emergency notification systems, voice services of public contact centers,

various intellectual applications to facilitate bureaucratic interaction with government agencies.

One of the achievements of the digitalization process in the legal and state spheres is the blockchain, which is considered effective in such areas as notaries, stock exchanges, justice, personal identification, etc. Blockchain is a technology of a distributed peer-to-peer public network that can store information about transactions permanently and without the possibility of its change and which is protected by cryptographic means. Blockchain networks can provide many options for different purposes, especially in the public sector: electronic referendums, e-petitions, e-voting, and e-government. Blockchain provides an unprecedented level of information protection and allows you to create fully decentralized systems. The high resistance of the system to attacks allows its use in such sensitive areas as e-finance, public procurement, and e-budgets (Lopushytsky, 2018).

## **1. Theoretical framework**

To comprehensively study the digitization of law, taking into account international experience, some regulations, scientific articles, monographs and statistics were studied and analyzed.

The works by the following scientists are devoted to the study of digitalization: Kolesnikov (2012), Tronko (2017), Lopushytsky (2018), Cherednichenko and Baranovska (2021), Kolyadenko (2016), Golovko and Dubenets (2020), Kartsikhia (2018), Chukut and Poliarna (2016), Melnyk (2012), and Verlos (2020).

The definition of the essence of digitalization is examined in the articles of Cherednichenko and Baranovska (2021) “Digitalization of public administration”; Petrenko and Mashkovska (2020) “ Digitalization of state administrative services in Ukraine: regulatory aspects”; Kolyadenko (2016) “Digital Economy: Prerequisites and Stages of Formation in Ukraine and the World”; Lopushytsky (2018) “Digitalization as a basis for public administration on the path of transformation and reform of Ukrainian society”; Golovko and Dubenets (2020) “The role of digitalization of state services in legal relations with a foreign element”. Thus, the definition of digitalization is reduced to the use of digital technologies in most spheres of public life.

The study of international experience in the implementation of information technology in the legal system has become possible through the study of the digitalization process in countries such as Britain, France, Germany, Italy, Georgia, Greece, and Estonia. The following works are devoted to this area: “State policy in the field of the information society

in France: prospects for Ukraine” by Melnyk (2012); “Selected decisions of the Federal Constitutional Court of Germany” by Crawford (2018). In addition, in this direction were normative documents regulating digital rights, mechanisms of public administration with the use of information technologies were applied. In particular, such documents are the Policy Recommendations of the European Commission 2019-2024 (Leyen, 2019) (the use of artificial intelligence), the United Nations E-Government Survey (United Nations, 2021) (UN study on the level of e-government development in different countries), the Constitution of Greece, Georgia, Germany, France, and Italy (consolidation of digital rights), etc.

Statistical data on the level of implementation of digital technologies in the different countries is done by examining the work of Egorov and Hryha (2019). Comparative analysis of digitalization indicators in Ukraine and other countries of the Eastern Partnership of the EU.

The phenomenon of digitalization is a constantly evolving mechanism for convenient and effective functioning of public life, which requires further study in the following areas:

- digital rights of citizens in the general system of rights, their regulation and protection.
- collection of statistical data on digitization processes.
- methods of professional training for work in the digital state, and.
- modernization of legal mechanisms for the introduction of information technology in various spheres of society.

## 2. Methodology

The authors carried out their research with the help of such methods: the systemic method, the comparative method, the method of observation, and the methods of analysis and synthesis.

Thus, the systemic method as a general scientific method was used in the consistent study of structural links between the achievements of foreign countries in the field of digitalization of public relations and public administration. Also using the specified method, the available digital rights were defined and systematized.

Furthermore, the comparative method helped to compare foreign experience in the implementation of digitalization and highlight its positive features, which are considered appropriate to use in building a domestic system of legal services.

Moreover, the method of observation was used to determine the dynamics of the object of study. Thus, gradual diversification of information processes that took place due to the development of the Internet was revealed. In this regard, a necessary element in the process of digitalization was the development of regulations in this area, programs, and strategies for the development of digital technologies at the state level.

The method of analysis was useful for the study of digitalization, gradually dividing the research of the theoretical part of the object and the practical part, which consists of the analysis of international experience in the use of information technology. Analytical assessment of the processes of implementation of information technologies made it possible to identify patterns, according to which it became possible to identify certain features of digitalization as a mechanism for ensuring effective public administration.

The method of synthesis also allowed to gather the studied theoretical and practical aspects into a single whole to find the most effective mechanisms for the introduction of digitalization.

### **3. Results and discussion**

The modern legal literature focuses on the understanding of law as a general social phenomenon. The law is based not only on knowledge but also on some cultural, legal values - justice, freedom, equality, etc. (Lutsky, 2013). Rule of law states (i.e. those, in which the rule of law is recognized in all spheres of public life) the inviolability of a person's freedom, his/her rights, and interests, their protection and guarantee, create effective mechanisms for regulating legal relations.

The development of technology leads to the emergence of new social relations, and therefore there is a need for their legal regulation. At the present stage of the development of rule of law, digitalization is a new phenomenon. In the scientific literature, a small number of works are devoted to this issue. In most scientific papers, digitization is considered in the context of public administration and relates to economic activity.

Regarding the notion of the concept of digitalization, there is no single definition. It is advisable to consider the most common interpretations. Thus, digitalization is a multifaceted process of society's transition to digital technologies, which applies to all spheres of public life (Cherednichenko, & Baranovska, 2021). It is the introduction of digital technologies in all spheres of life:

- from the interaction between people to industrial production, and.

- from household items to children's toys, clothes, etc. It is the transition of biological and physical systems into cyberbiological and cyberphysical (combination of physical and computational components), the transformation of activities from the real world to the virtual world (online) (Petrenko, & Mashkovska, 2020). In the broadest sense, digitization is a synthetic category, which means all socio-economic processes, which are based on the use of digital technologies (Kolyadenko, 2016).

Stepanov identifies the following advantages of using information technology in public administration:

- increasing the efficiency of interdepartmental interaction.
- improving the quality of public services to the population and organizations, and;
- coordinated personal and collective work of government officials.

European Commission President Ursula von der Leyen (2019) (in the European Commission's Policy Recommendations 2019-2024) emphasizes that "digital technologies, especially artificial intelligence, are changing the world at an unprecedented rate, and their use will help find solutions to societal problems from health to agriculture, from security to production".

According to United Nations research presented in the "United Nations E-Government Survey 2018", there is a positive trend among 193 countries surveyed to increase the level of e-government development. The group with a very high index of e-government development in 2018 includes 40 countries; 71 countries – to the group with a high index of e-government development; 66 countries – with a medium index and 16 countries – to the group with a low (United Nations, 2021).

To assess the digitization process in the EU, a special Digital Economy and Society Index (DESI) has been developed, which provides information for analysis on the following main factors (European Commission, 2019; Pilinsky, & Veretyuk, 2015): efficiency assessment, improvement, dynamics assessment, and comparative analysis.

The level of functioning and development of digital technologies in the countries of the Eastern Partnership of the EU can be demonstrated using the data of the Table 1 made based on the analysis of sources (HiQStep, 2019).

<b>Branches of DESI</b>	<b>Ukraine</b>	<b>Azerbaijan</b>	<b>Armenia</b>	<b>Belarus</b>	<b>Moldova</b>	<b>Georgia</b>
<b>Use of the Internet</b>	44 %	63 %	41 %	70 %	41 %	70 %
<b>Providing digital control</b>	17 %	17 %	17 %	100 %	17 %	50 %
<b>Digital government services</b>	50 %	100 %	0 %	50 %	100 %	100 %
<b>Integration of digital technologies</b>	50 %	7 %	7 %	43 %	21 %	29 %

**Table 1.** The level of functioning and development of digital technologies in the countries of the Eastern Partnership of the EU. (HiQStep, 2019).

The above statistics indicate the gradual introduction of information technology in public policy.

Trends in the development of e-government can be traced at three levels (Golovko, & Dubenets, 2020):

- interdepartmental – in the interaction of public authorities with each other to optimize the functioning of the administrative apparatus.
- private – in partnership with the government and business entities to reduce government spending through the use of outsourcing technology and the creation of a transparent system of public procurement.
- public – in cooperation with the public and public authorities to involve citizens in decision-making by the authorities, overcoming the bureaucracy of administrative activities, and building e-democracy.

In the legal doctrine, in connection with the use of information technology, a new type of characteristic of the provision of public services – the digital democracy of the state. According to Chukut, e-democracy is an important component of e-government, because its main goal is to meet the needs of citizens, achieve social values by using the benefits of the information society, overcoming such negative phenomena as corruption, formalization of modern governance (Chukut and Poliarna, 2016).

Since legal relations are characterized by external expression, such relations are manifested in the actions or inaction of legal entities. In turn, the subjects of law are individuals and legal entities that are the bearers of rights and obligations enshrined in law.

Given the above, when analyzing the process of digitization of law from an international perspective, we should pay attention to the activities of

legal entities in economic activities that use information technology, as the regulatory nature is not unique to law.

Digitization in the public economic policy of Great Britain consists in:

- building a world-class digital infrastructure, investing in the development of the digital economy, accelerating the development and use of next-generation digital infrastructure.
- giving everyone access to the necessary digital skills.
- developing digital business by financing research, creating conditions for the prosperity of the artificial intelligence industry, cooperation with research centers in other countries and with a network of technical centers created by the UK in developing countries, and;
- ensuring a high level of protection of British cyberspace, using the potential of innovation in cybersecurity (Heeks, 2018).

Awareness of the importance of comprehensive regulation of digitization in the UK is evidenced by the existence in this country of the Digital Economy Act, which provides, in particular, the registration of domain names on the Internet and how media content contributes to public service goals, obligations to suppliers Internet services aimed at reducing copyright infringement on the Internet, the power of the Secretary of State to obtain a court order to block the Internet location used in connection with copyright infringement (GOV.UK, 2017).

Relevant in the process of legal digitization is the normative consolidation of digital rights, which will regulate the relationships that arise in the process of human interaction during the use of information technology.

Digital rights are a separate type of human rights, which covers the specifics of the implementation and guarantees of the protection of fundamental human rights on the Internet, including freedom of expression and the right to privacy online. The following definitions of digital rights can also be found in the scientific literature:

- the right of citizens to access, use, create and publish digital works, and;
- the right to free access to the Internet (other communication networks) using computers and other electronic devices (Kartsikhia, 2018).

The literature identifies two ways of legislative consolidation of digital rights: constitutional consolidation and constitutional interpretation of existing rights given modern information development (Verlos, 2020).

At the constitutional level, digital rights have been enshrined in countries such as Greece and Georgia. For the legislative consolidation of such rights by interpreting certain constitutional norms in the light of digital reality, either body of constitutional jurisdiction are used, or separate laws regulating certain digital rights are adopted. Such countries include Germany, France, and Italy.

According to the legislation of the above-mentioned states, the following digital rights can be distinguished (Table 2):

<b>Country</b>	<b>Digital rights</b>
<b>Greece</b>	the right of all persons to participate in the information society and to facilitate access to information transmitted in electronic form (Part 2 of Article 5A of the Greek Constitution (2008))
<b>Georgia</b>	the right of everyone to access and use the Internet freely (paragraph 4 of Article 17 of the Constitution of Georgia (Law No. 786/1995, 1995))
<b>France</b>	the right to access the Internet (the Constitutional Council of France has made amendments to the legislation on the protection of intellectual property: the rules on the possible automatic and extrajudicial disconnection of infringers to the Internet are considered illegal (Decision No. 2009-580, 2009))
<b>Germany</b>	the right to information self-determination, to ensure the integrity and confidentiality of information technology systems, to the secrecy of correspondence, postal items and telecommunications (Crawford, 2018)
<b>Italy</b>	access to the Internet is a fundamental human right and a condition of its full individual and social development, everyone has an equal right to access the Internet on equal terms with technologically adequate and modern methods that eliminate any economic and social barriers (Article 2 of the Declaration of Rights in Internet (Internet Rights and Duties Commission, 2015))

**Table 2.** The digital rights in Greece, Georgia, France, Germany, and Italy.

For Ukraine, the creation of specialized legislation in the field of digital technologies and the consolidation of digital rights at the constitutional level is considered a promising direction. In addition, the literature has an opinion on the feasibility of developing international acts that would regulate the field of information technology (Shvidka, 2020).

A striking example of legal digitalization is France, where since 1998, the Program of governmental actions of France's entry into the information society (Roche, 2005). France as a country with a developed digital environment is characterized by (Melnyk, 2012):

- the use of information technology in government.
- professional training for the effective implementation of public policy based on the use of digital technologies.
- ensuring easy access of citizens to the government via the Internet.
- technical and legal definition of electronic signatures in the government-citizen relationship.
- encouraging the development of administrative telework, and;
- modernization of state computer systems.

The development of e-government in France is to ensure interoperability between management services and the availability of management sites, expanding access to electronic payment systems, access to justice via the Internet.

Given the experience of France, it is expedient for Ukraine to implement measures to train officials in the field of information technology, take into account knowledge in the digital sphere when enrolling in the civil service, appropriate modernization of public computer systems, and rationalization of public funding in the information society.

The development of information technology has led to the emergence of means of payment on the Internet, which requires constant improvement of legislation in this area. At the level of the European Union, the issue of payment systems is regulated by many directives, in particular, the Directive of the European Parliament and the Union of 2007 No. 2007/64/EC (on payment services in the internal market), Directive of the European Parliament and the Union No. 2009/110/E (on the taking up, pursuit and prudential supervision of the business of electronic money institutions) (Deloitte, 2017).

Regarding the Ukrainian system of legal regulation of payment systems, it is regulated by some Laws of Ukraine “On Payment Systems and Funds Transfer in Ukraine” (Law No. 2346-III, 2001), “On Banks and Banking” (Law No. 2121-III, 2000), as well as in the Law of Ukraine “On the National Bank of Ukraine” (Law No. 679-XIV, 1999) and some other bylaws regulations of the National Bank of Ukraine and the Cabinet of Ministers of Ukraine. The main objectives of the legal regulation of payment systems are to limit systemic and other risks, the protection against fraud, support the development of effective methods of providing payment services (Institute for Economic Research and Policy Consulting, 2010).

The main problems in the system of legal regulation of payment systems are:

- underdeveloped legal regulation of mechanisms for the protection of consumers of payment systems and the companies themselves that provide these services.
- insufficient payment and financial literacy of some categories of the population, especially pensioners. To overcome this problem, it is necessary to develop and publish information leaflets with step-by-step instructions on how citizens can use payment systems in their daily calculations, and;
- international payment systems are gradually displacing domestic ones. In this regard, it is advisable to support national enterprises in the creation of domestic payment systems and related services through benefits for residents who wish to open their business in this area (Dzhusov, & Pilyak, 2020).

Thus, based on the analysis of international experience in the field of digitalization of law, we can conclude that the system of gradual improvement of relations arising from the use of digital rights of citizens (France, Italy, Germany, Greece, and Georgia). For effective public administration, digital technologies are an effective tool that requires comprehensive study and practical testing.

## **Conclusions**

As a result of the study of the international legal aspect of digitalization, the following has been established in law.

1. International experience in the introduction of digitalization systems as a tool for effective communication with the system of provision, including and not exclusively public services, protection of interests, shows that depending on the level of interest of a country in integration into the global communication system, the direction of digital state policy.
2. In the process of legal digitalization, an important role is played by the normative consolidation of digital rights, which allows regulating the relations that arise in the process of human interaction during the use of information technology.
3. The main problems in the system of legal regulation of payment systems are:
  - underdeveloped legal regulation of mechanisms for the protection of consumers of payment systems and the companies themselves that provide these services.

- insufficient payment and financial literacy of some categories of the population, especially pensioners. To overcome this problem, it is necessary to develop and publish information leaflets with step-by-step instructions on how citizens can use payment systems in their daily calculations.
- international payment systems are gradually displacing domestic ones. In this regard, it is advisable to support national enterprises in the creation of domestic payment systems and related services through benefits for residents who wish to open their business in this area.

Thus, based on the analysis of international experience in the field of digitalization of law, we can conclude that the system of gradual improvement of relations arising from the use of digital rights of citizens (France, Italy, Germany, Greece, and Georgia). For effective public administration, digital technologies are an effective tool that requires comprehensive study and practical testing.

Regarding further scientific research, it is essential to investigate both Ukrainian and international bills on the regulation of the digital transformation of our country and to develop proposals for the possible implementation of the positive experience of foreign countries in Ukrainian legislation.

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del contenido del mismo conforme a las indicaciones para los colaboradores.

8. Bibliografía y fuentes: deben ser suministradas con claridad. El evaluador tomará en cuenta su pertinencia, actualidad y coherencia con el tema desarrollado.

La evaluación de cada uno de esos criterios se hará en una escala que va desde excelente hasta deficiente. El árbitro concluirá con una Evaluación de acuerdo al instrumento: publicable, publicable con ligeras modificaciones, publicable con sustanciales modificaciones y no publicable. Los árbitros deberán explicar cuáles son las modificaciones sugeridas de una manera explícita y razonada cuando este fuera el caso. La revista no está obligada a explicar a los colaboradores las razones del rechazo de sus manuscritos, ni a suministrar copias de los arbitrajes dado el carácter confidencial que ellos poseen.