

E-justice in Administrative Process: European Standards and Foreign Experience

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Abstract

One of the key aspects of the development of electronic administrative justice in Ukraine is its compliance with European standards, which define important principles, methods, and recommendations aimed at ensuring the efficiency, accessibility, and quality of judicial activities in a digital environment. That is why the purpose of this article is to analyze European standards and foreign experience in the field of electronic administrative justice and the possibility of their implementation in national legislation. The conduct of this research is extremely important and relevant, as it will help to adapt the Ukrainian judicial system to international standards and norms. The methodological basis of the research is a set of general scientific and special methods of cognition, namely the methods of dialectics, comparative law, system-structural, formal-logical, etc. As a result of the analysis, it was concluded that significant attention should be paid to the protection of personal data, confidentiality, information security, as well as ensuring access to justice, impartiality, independence of judges, and justice. The article also highlights the experience of implementing information and telecommunications technologies in the system of administrative justice in such European Union member states as Estonia, Lithuania, and Austria, as well as Korea and China. It is noted that in these countries, electronic justice has become an important part of justice, and in view of this, the key aspects of their experience that can be useful for Ukraine are revealed. In addition, a comparative analysis of foreign and domestic experience in the functioning of electronic justice was carried out and the main reasons that slow down its development in Ukraine were identified. It has been proven that the involvement of advanced experience and best practices of foreign countries will significantly contribute to the successful implementation of electronic administrative justice in Ukraine. At the same time, it is important to take into account the unique context, capabilities, and needs of the national judicial system.

Keywords: *e-justice; electronic administrative justice; information and telecommunication technologies; foreign experience; European standards.*

Електронне правосуддя в адміністративному процесі: європейські стандарти та зарубіжний досвід

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Анотація

Одним із ключових аспектів розвитку електронного адміністративного судочинства в Україні є відповідність його європейським стандартам, які визначають важливі принципи, методи та рекомендації, спрямовані на забезпечення ефективності, доступності та якості судової діяльності в цифровому середовищі. Саме тому метою статті є аналіз європейських стандартів та зарубіжного досвіду у сфері електронного адміністративного судочинства та можливості їх імплементації у національне законодавство. Проведення цього дослідження є надзвичайно важливим та актуальним, оскільки допоможе адаптувати українську судову систему до міжнародних стандартів та норм. Методику дослідження становить сукупність загальнонаукових та спеціальних методів пізнання, а саме: методи діалектики, порівняльно-правовий, системно-структурний, формально-логічний та ін. Насамперед у статті детально проаналізовано європейські стандарти функціонування електронного судочинства та можливість їх імплементації в національне законодавство. Зроблено висновок, що значна увага повинна приділятися захисту персональних даних, конфіденційності, безпеці інформації, а також забезпеченню доступності до правосуддя, неупередженості, незалежності суддів та справедливості. Проаналізовано досвід впровадження інформаційно-телекомунікаційних технологій у систему адміністративного судочинства таких країн-членів Європейського Союзу, як Естонія, Литва та Австрія, а також таких передових держав, як Корея та Китай. У цих державах електронне судочинства стало важливою складовою правосуддя, а тому висвітлюються ключові аспекти їхнього досвіду, які можуть бути корисними для України. Проведено порівняльний аналіз зарубіжного досвіду функціонування електронного судочинства з українським та визначено ключові аспекти, які сповільнюють цей розвиток. За результатами нашого дослідження зроблено висновок, що залучення передового досвіду та найкращих практик з інших країн може значною мірою сприяти успішному впровадженню електронного адміністративного судочинства в Україні. При цьому важливо враховувати унікальний контекст, можливості та потреби національної судової системи.

Ключові слова: електронний суд; електронне адміністративне судочинство; інформаційно-телекомунікаційні технології; зарубіжний досвід; європейські стандарти.

Introduction

E-justice is a modern and innovative paradigm of judicial activity that is gaining more and more realization and significance in the modern legal space. One of the key aspects of the development of electronic administrative justice in Ukraine is its compliance with European standards, which define important principles, methods and recommendations aimed at ensuring the efficiency, accessibility and quality of judicial activities in the digital environment. The normalization carried out by legal standards to make judicial procedures predictable and homogeneous and grant equal treatment is supplemented by the digital working environment [1].

The adaptation of Ukrainian legislation to the EU legislation is aimed at harmonizing national rules and regulations with the standards and provisions defined in the European legal space. The legislative framework for such adaptation is set out in the Concept of the National Program for the Adaptation of Ukrainian Legislation to the Legislation of the European Union, which was approved by Law of Ukraine No. 228-IV of November 21, 2002. In accordance with the provisions of this Concept, its main tasks are to create a legal framework for Ukraine's integration into the European Union, to develop Ukrainian legislation in the direction of its approximation to the legislation of the European Union, to ensure compliance of Ukrainian legislation with the obligations arising from international treaties concerning Ukraine's cooperation with the European Union, etc. [2].

The Strategy for the Development of the Justice System and Constitutional Justice for 2021-2023, approved by the Decree of the President of Ukraine of June 11, 2021 No. 231/2021, stipulates that the main task of improving the justice system is to ensure the coordination and balance of the improvement process, taking into account the further harmonization of national legislation with the legislation of the European Union [3].

Thus, the process of adaptation of national legislation to European norms and implementation of European standards in the field of electronic administrative justice is a necessary step in building a modern and efficient justice system, and also contributes to strengthening democracy and the rule of law in Ukraine. The use of electronic technologies can improve the accessibility of judicial services for citizens and increase their efficiency, and foreign experience can provide important guidance for the development of the administrative justice system in Ukraine.

The purpose of this article is to analyze European standards and foreign experience in the field of electronic administrative justice and the possibility of their implementation into national legislation. It is worth noting that an in-depth analysis of European standards and foreign

experience is an integral part of the development of the modern judicial system. However, it is important to take into account that each country has its own cultural, economic, social and legal peculiarities, and therefore the implementation of foreign experience requires careful adaptation to national realities and consideration of the specifics of Ukraine. In particular, the most important aspect is not just copying other people's decisions, but their adequate and effective integration into national legislation and court practice.

At the scientific level, the problem of implementation and functioning of electronic administrative justice is relatively new. Such scholars as N. Loginova, O. Bryntsev, N. Holubeva, N. Kushakova-Kostytska, I. Kaminska, L. Serdiuk, O. Bernaziuk and some others have analyzed certain aspects of electronic justice in Ukraine. However, there is currently a limited number of scientific studies that would thoroughly consider European standards and foreign experience in the implementation and operation of the electronic administrative justice system. For example, the only comprehensive scientific work in this area is the monograph by N. Golubeva "Electronic Justice: International Experience" [4]. In this regard, there is a need for additional research and analysis of European standards and foreign experience in electronic administrative justice.

In particular, the relevance of such a study lies in the fact that Ukraine is striving to improve the quality and accessibility of judicial services, as well as to create an efficient and transparent justice system. E-administrative proceedings can significantly improve these indicators, but it is necessary to understand how it works in other countries that already have extensive experience in this area. A study of European standards and foreign experience will allow Ukraine to avoid possible mistakes and achieve its goals in reforming administrative justice faster. This analysis will be an important source of information for legislators, judges, and others.

Materials and Methods

Researching the European standards for the functioning of e-justice was analyzed a set of regulations of international organizations in the European space, such as the Council of Europe and the Advisory Council of European Judges. In particular, the Council of Europe is actively working on the development of standards in the field of e-justice. Its recommendations relate to e-justice, electronic identification, and human rights in this context. The analysis of these regulations and practices helps to understand what standards and approaches exist in the European space regarding e-justice and how these standards can be useful for Ukraine in the process of reforming its judicial system.

Researching the foreign experience in the implementation and functioning of e-justice were used the official sources of foreign countries – the official websites of the judicial authorities of countries that actively implement e-justice and contain texts of legislation, resolutions, reports and other materials. The author also researched and analyzed information on the level of implementation of electronic technologies in the judicial system of different European countries, which is available on the European e-Justice Portal.

The research methodology was formed by a set of general scientific and special methods of cognition, the use of which ensured the reliability and validity of the results of the scientific research. The use of these methods is mostly complex, due to the specifics of the topic of the scientific article.

The methodological basis of the study is the *dialectical method* used to determine the specific features of European standards and foreign experience of electronic administrative proceedings. The dialectical method helps to consider not only the current state, but also the prospects for the development of electronic court procedure in the context of European standards and foreign experience. For example, what opportunities does the European experience offer for further improvement of the national judicial system.

The comparative legal method is used to analyze foreign experience in the implementation and functioning of e-justice and European standards in this area. *The methods of analysis and synthesis* made it possible to analyze and systematize the main European standards used in the field of information and telecommunication technologies in the justice system.

The system-structural method allows us to consider the e-Justice system as a complex structure consisting of various components. The system-structural approach helps to determine how effectively the system functions in the context of European standards and how it can be improved.

The formal logical method was used to formulate conclusions and further directions for improving electronic administrative justice in Ukraine, taking into account the experience and practices of foreign countries.

Sociological methods, including observation, document analysis, and generalization, were used to address other research objectives. In addition, throughout the study, the methods of categorical and terminological generalization, deduction, induction, analogy, etc. were used. In particular, thanks to the methods of synthesis and generalization, the author identifies the main shortcomings and prospects for the development of electronic administrative justice in Ukraine.

Results and Discussion

European standards of functioning of the E-justice in administrative process

In the context of globalization and rapid technological change, the exchange of experience and analysis of best practices are becoming key factors in the successful development of any sector, including the judiciary. Considering European standards and foreign experience in implementing information and telecommunication technologies in administrative justice, Ukraine has the opportunity to make its own choice on the way to reform and improve administrative justice.

The European standards for the functioning of electronic administrative proceedings are determined by a number of regulatory acts, including the following:

1. Recommendation Rec (2001) 2 of the Committee of Ministers of the Council of Europe to member states on the construction and restructuring of judicial systems and legal information in an economical manner, adopted by the Committee of Ministers on February 28, 2001 at the 743rd meeting of deputy ministers.
2. Recommendation Rec (2001) 3 of the Committee of Ministers of the Council of Europe to member states on the provision of judicial and other legal services to citizens using the latest technologies, adopted by the Committee of Ministers on February 28, 2001 at the 743rd meeting of deputy ministers.
3. Recommendation Rec (2003) 15 of the Committee of Ministers of the Council of Europe to member states on the archiving of electronic documents in the legal sector, adopted by the Committee of Ministers on September 9, 2003 at the 851st meeting of deputy ministers.
4. Recommendation Rec (2010) 12 of the Committee of Ministers of the Council of Europe to member states on judges: independence, effectiveness and duties, adopted by the Committee of Ministers of the Council of Europe on November 17, 2010 at the 1098th meeting of the Ministers' Deputies.
5. Opinion No. 14 (2011) of the Consultative Council of European Judges to the attention of the Committee of Ministers of the Council of Europe on the Information Technology Justice, adopted by the CCJE at its 12th plenary session (Strasbourg, November 7-9, 2011).
6. Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation).
7. Strategy for e-Justice for 2019-2023 2019/C96/04, approved on March 13, 2019.

This is not an exhaustive list of legal acts in the field of electronic administrative proceedings, but these documents define the basic standards and principles of its functioning in Europe.

For example, Recommendation Rec (2001) 3 of the Committee of Ministers of the Council of Europe to member states on the provision of judicial and other legal services to citizens using the latest technologies, adopted by the Committee of Ministers on February 28, 2001 at the 743rd meeting of deputy ministers, contains the following provisions:

- the means of communication with courts and other legal institutions (departments of registration of acts, etc.) should be simplified as much as possible, using the latest technologies;
- it is necessary to use the latest technologies under the condition of compliance with the requirements of security and confidentiality of private information, namely to ensure the possibility of: opening proceedings using electronic means; implementation of further procedural actions within the framework of proceedings in the environment of electronic document circulation; to receive information about the progress of the case by accessing the court information system; receiving information about the results of proceedings in electronic form; obtaining access to any information relevant to effective proceedings;
- information in electronic form about legal proceedings must be publicly available;
- information should be disseminated using the most widely used technologies (currently the Internet);
- the state should, as far as possible, ensure the reliability and completeness of the information it provides to individuals and the private sector [5].

In Opinion No. 14 (2011) of the Advisory Council of European Judges for the attention of the Committee of Ministers of the Council of Europe on Justice and information technologies, adopted by the CJEU at its 12th plenary session (Strasbourg, November 7-9, 2011), defined general principles regarding the use of modern information and telecommunication technologies in courts, including:

- the introduction of information and telecommunication technologies in European courts should not harm the "human face" and symbolic meaning of justice. This principle suggests that justice should remain a humane and not a purely technical process, as it relates directly to people and disputes between them;
- information and telecommunication technologies should not limit the procedural rights of the parties, and therefore judges should be aware of the possibility of such a threat and clearly distinguish both the advantages and disadvantages of modern technologies;

- when using electronic means in record keeping or in court proceedings, judges must assess the impact of information and telecommunication technologies, and in no case such technologies cannot be an obstacle to the independent and impartial application of laws by judges;
- there is no need to abandon traditional means of access to information, as not all individuals have access to information and telecommunication technologies. This approach is a manifestation of concern for the socially unprotected and vulnerable sections of the population;
- the use of information technologies should not undermine the procedural guarantees of persons who do not have access to modern technologies. States should ensure that the necessary support is provided to those parties to the case who cannot benefit from such access;
- it becomes especially important to provide guarantees that technical failures that may occur when using information technologies in court proceedings will not slow down the court process;
- in the event that the information and telecommunications system is in the process of technical maintenance or experiences technical problems, there should be the possibility of applying alternative solutions to ensure the implementation of the legal process;
- it is necessary to pay special attention to the assessment of draft laws related to the introduction of information technologies into the judicial system. The Advisory Council of European Judges recommends that new legislation in this area enter into force only after the establishment of information systems that meet the requirements and after appropriate training of court personnel;
- for the sake of international and European judicial cooperation, states should consider the possibility of providing mutual access to national judicial information and telecommunication systems and create such systems so that they are compatible with each other (for electronic exchange of necessary information, sending requests and messages to foreign courts, for cross-border research of evidence, etc.);
- the access of individual employees to data and information contained in registration logs, case materials, preparatory documents and draft decisions, court decisions, statistics regarding the assessment of the performance of judges and court management should be limited, this information should be protected by an appropriate level of security;
- courts should ensure proper protection of databases of court decisions, which should be established at the legislative level, since online access to certain court decisions may violate the personal rights of individuals and pose a threat to the interests of legal entities;
- standard forms of documents can be developed to support the writing of a court decision or resolution;

– the use of information technologies should not exclude the mandatory trial of the case and the fulfillment of all other procedural formalities required by law. Regardless of the circumstances, the judge must retain the authority to summon the party to the court session, demand the presentation of documents in their original form and conduct the interrogation of witnesses, etc. [6].

Another important document that establishes the principles of the functioning of electronic justice in Europe is the Strategy of electronic justice for 2019-2023, which was approved on March 13, 2019. This Strategy states that European e-Justice aims to improve access to justice in a pan-European context and develops and integrates information and communication technologies for access to legal information and the operation of judicial systems.

According to this Strategy, European e-Justice shall:

- support the digital default approach, in particular by committing to provide citizens and businesses with the possibility of digital interaction with the authorities, as well as the integration of the digital default approach into national and European Union legislation and thus guarantee legal certainty and continuity interactions in the national and cross-border context;
- operate according to the principle of one-time use, that is, avoid redundant procedures and, in accordance with data protection rules, reuse information entered into the system once for subsequent procedures, if it is not outdated;
- be user-oriented, i.e. have applications, websites, tools and systems designed with ease of use and empowerment in mind [7].

The legislative steps and technology developments followed by the EU legislator concentrate on five main lines: (1) making digital communication means compulsory between courts and competent authorities in cross-border litigation; (2) requesting courts and competent authorities to accept electronic communication from natural and legal persons when these have chosen to make use of such means; (3) widening the legal basis for the use of videoconferencing and other distance communication technology for oral hearings and taking of evidence; (4) broadening the use of identity recognition and trust services; and (5) creating the legal framework and institutionalising the management of the e-CODEX cross-border communication system [8].

In general, all international normative legal acts consider information and telecommunication technologies as a tool that improves the justice system, facilitates users' access to the court and facilitates efficient

and fast consideration of court cases. At the same time, considerable attention should be paid to the protection of personal data, confidentiality, information security, as well as the provision of such guarantees as: access to justice, impartiality, independence of the judge, fairness and reasonable terms of consideration of the case.

Thus, analyzing the national and European legislation in the sphere of the functioning of electronic administrative proceedings, it is important to note that in the integration of information and telecommunication technologies into the justice system, Ukraine has come quite close to the relevant European standards. Achieving compliance with the specified European regulatory legal acts is important for our state, as they determine not only the standards for the functioning of electronic justice, but also provide important recommendations for ensuring the efficiency, security and availability of judicial services in the context of modern technological realities. Therefore, the European experience of introducing modern information technologies in justice can be useful for Ukraine and help avoid possible mistakes in the future.

Foreign experience of the E-justice in administrative process

Regarding the level of implementation of electronic administrative proceedings in individual European countries, it should be noted that it is quite different. This is due to the political, economic, cultural and technological features of each country.

For example, on the European e-Justice Portal (the European e-Justice Portal) you can find information about the level of implementation of electronic technologies in the judicial system of various European countries.

Thus, Estonia is the European leader in the field of e-governance and implementation of the concept of an electronic state. Estonia is also one of the first countries in the world to successfully integrate electronic technologies into the justice system.

Back in 2006, Estonia first developed a complex electronic information system, and already 15 years later, this state has one of the fastest electronic court proceedings in Europe.

The Estonian electronic court system consists of three components – the central information system "e-File system", the court information system "KIS2" and a public portal for citizens. The electronic file system (e-File system) is the main information system that ensures the functioning of e-justice in Estonia and allows you to submit administrative claims to the court online, monitor the progress of cases, receive electronic documents, submit appeals, etc. This electronic system transmits data to the court

information system "KIS2", which is used for case management, namely, it performs registration and automated distribution of cases, assigns court dates, sends court summons, and automatically publishes court decisions.

In order to enter the electronic file system (e-File system), the user must be authorized using an ID card or Mobile-ID. When logged into the electronic system, users only have access to the legal proceedings and data in which they are involved. Persons not involved in the process do not have access to other people's legal processes.

Procedural documents are submitted through the electronic system in electronic format using a digital signature. In order to file an electronic administrative lawsuit, you need to enter the text and all the necessary data in a special form. The forms of the documents differ, but all have a similar format: general information about the case, detailed information about the parties, attached documents and payment of state duty must be provided. The court renders a decision in electronic form, protecting it with a digital signature of the judge or another similar technically secure method. It should be noted that along with the electronic form of judicial proceedings in Estonia, the traditional paper format of court proceedings is preserved [9].

Another European country that has achieved significant success in the process of integrating information technologies into administrative justice is Lithuania.

The possibility of submitting administrative claims electronically was implemented in Lithuania as early as July 1, 2013. The electronic exchange of documents is carried out through the Lithuanian Judicial Information System (LITEKO), which can be accessed through the Public Electronic Services (PES) subsystem at <https://www.teismai.lt/en> and <http://www.epaslaugos.lt/>.

LITEKO is an electronic platform that stores complete information about every case pending in Lithuanian courts. This electronic system works around the clock, and therefore all participants in the case can use its functionality without hindrance. Procedural documents in administrative cases can be submitted to the court of Lithuania by filling in the templates available in the LITEKO PES subsystem, or by downloading ready-made documents in the following formats: doc, docx, odt, rtf, txt. You can enter the portal of electronic services using such tools as electronic banking, an identification card or an electronic signature. Also, since 2013, lawyers and attorney assistants can receive procedural court documents and familiarize themselves with administrative case materials using electronic means of communication.

The functionality of e-judicial proceedings in Lithuania provides for the possibility of drawing up and sending procedural documents, reviewing case materials, monitoring case progress, and downloading case materials. It is quite interesting in Lithuania's e-judiciary that in the case of submission of documents in the administrative process electronically through the LITEKO system, users are given a 25% discount on the payment of the court fee.

At the same time, taking into account that in Lithuania, electronic administrative proceedings began to be used in 2013, the traditional paper format of document exchange has been preserved in this country, and therefore, the user can independently choose a convenient way of communicating with the court [10].

Thus, Lithuania's electronic system is an example of the successful integration of information technologies into the administrative justice system and how such technologies can improve the accessibility and quality of justice.

The experience of the functioning of electronic justice in Austria is interesting. In this European country, legal proceedings can be initiated using the Electronic Judicial Movement (ERV) electronic information system. Through this system, users can submit initial applications in the administrative process, complaints, responses, appeals, etc. in electronic format. There are two ways to use the ERV system: 1) through document centers; 2) through the download service ("ERV fur alle").

Thus, two-way exchange of electronic documents with a court in Austria can be carried out through special document centers. This service can be used by any person, but for this it is necessary to register with the document center and pay it a fixed monthly fee for the provision of services, as well as a fee for each individual transfer of documents. The basic monthly fee charged to the user is about 20 euros per month, and the document transfer fee is about 30 cents. The use of this method of document exchange is generally not mandatory, but lawyers, notaries, banks, insurance companies, state social security institutions, financial prosecutor's offices and bar associations are obliged to use document centers exclusively when applying to court.

At the same time, there is an alternative free way for Austrian citizens to electronically transfer documents to the court through the download service ("ERV fur alle"). You can use this service with a citizen card (ID Austria). However, unlike document centers, the document upload service ("ERV fur alle") works only in one direction - for submitting electronic documents. That is, return documents are not received through this service [11].

Analyzing the foreign experience of implementing electronic administrative proceedings, it is important to take into account the practice of such advanced countries as Korea, China, the USA, Singapore, Japan, Canada and Australia.

The electronic justice system in the Republic of Korea is one of the most developed in the world. This state pioneered the use of electronic features to streamline court processes, launching electronic case management back in the 1980s.

Thus, in 1986, a civil case management system was launched, with the help of which the civil case proceedings were partially computerized. In 2002, work was completed on the development of the Case Management System, which was used by all judges for the computerization of all types of cases, including administrative ones, namely for receiving cases, distributing cases, managing official documents, maintaining documents, saving documents, etc. In 2007, JUSTICE was implemented – a system for supporting the work of judges, which provides for the planning of court hearings, conducting cases, writing decisions in electronic form.

The Electronic Document Filing System (ECFS) was first launched on 26 April 2010 for patent cases. This new system was introduced as a new generation Case Management System model to support a paperless court process. In January 2013, the ECFS was expanded to handle administrative cases.

The Electronic Case Filing System (ECFS, <http://ecfs.scourt.go.kr>) is Korea's electronic judicial system. It is a comprehensive system that allows litigants and their attorneys to file and conduct cases and access court information and proceedings electronically. They can submit all court documents, documentary and digital evidence online without physically visiting the courts. After filing a case through ECFS, plaintiffs receive email and text notifications when other parties file lawsuits. If the defendants consent to e-mail submissions, they may also receive e-mail notices of other parties' submissions. Such notification, together with access to case materials and procedures in electronic form, allows all parties using the ECFS to quickly check the current status of the proceedings [12].

It is worth noting that Korea did not immediately abandon the paper-based judicial system. In order to allow users to adapt, in Korea they left the paper processing of the case on demand, and only then gradually this country moved to a paperless system. Also, to convince users to switch to electronic submission of documents to court in Korea, they reduced the court fee by 10 % for lawyers who use electronic submission and created online help centers with frequently asked questions to inform users.

After the introduction of the electronic document exchange system, in 2016 about 60 % of the documents submitted to the court were presented in electronic format.

Also, it is very interesting and effective enough for the development of electronic justice that electronic courtrooms have been created in Korea. Electronic courtrooms are well equipped with electronic technology and devices including computers, DVD players, etc. Both parties and witnesses can use these devices during the trial. In addition, electronic courtrooms improve the transparency and accessibility of court proceedings. Judges and other participants in the court proceedings, such as parties, lawyers, can view the stenographic notes typed by the court reporter in real time on their computer screens.

Evaluating the experience of implementing electronic justice in different countries in the context of the possible application of their approaches, China also deserves special attention.

In China, since 2016, an electronic court system known as the "Smart Court SoS (System of Systems)" has been used. This system is aimed at introducing modern technologies and information systems into the judicial system to improve the quality and efficiency of the judiciary. "Smart Court SoS (System of Systems)" is based on the use of artificial intelligence as a key element of the system.

"Smart Court SoS (System of Systems)" is a multi-level system that covers all stages of the dispute resolution process, from online mediation, court hearings, adjudication and enforcement. Most interestingly, however, it has the ability to automatically scan court cases for citations, as well as recommend laws and regulations to judges, draft legal documents, and correct what it considers "human errors" in court decisions. In other words, "Smart Court SoS (System of Systems)" represents a revolutionary step in the direction of combining justice with advanced technologies and introduces the possibility of solving cases with artificial intelligence in the future.

In particular, in China today, virtually every judge consults with artificial intelligence in every case. If the judges disagree with the machine's recommendation, they must provide a written explanation. According to statistics, the introduction of artificial intelligence in China's judicial system reduced the average workload of judges by more than a third and saved 1.7 billion working hours for Chinese citizens from 2019 to 2021. In addition, over 300 billion yuan (US\$45 billion) was saved through the use of smart court during the same period, which definitely indicates the effectiveness of using this system [13].

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 [14].

So, summarizing the experience of implementing electronic administrative proceedings in different countries of the world, it is worth noting that the trend of using advanced technologies to transform the judicial system is currently quite popular and is actively implemented in other countries to modernize and improve the justice system. Technological progress makes it possible to automate court processes, ensure the availability of court services, and make judicial proceedings more efficient and transparent through the use of artificial intelligence, electronic document storage systems, and online platforms. Also the most effective e-justice operates in those countries where there is no "paper" mediation during the transfer of electronic documents at the stages of the trial, that is, there is the possibility of the existence of all judicial information in the case in digital form (at least in parallel with the possibility of using the traditional, paper form) [15].

Countries that have already successfully implemented e-administrative justice demonstrate that it contributes to speeding up the judicial process, reducing costs and improving the quality of decision-making.

Carrying out a comparative analysis of the level of integration of information and telecommunication technologies in the administrative justice system of Ukraine with other advanced countries in this field, it is worth noting that even if our state is still at the initial stage of this process, certain positive changes and prospects can already be noted. In particular, Ukraine has already introduced an electronic court platform. The e-court provides the parties with opportunities such as payment of court fees online, obtaining information on the stages of the judicial proceeding, sending procedural documents to the parties to a trial by electronic means, sending a court summons in the form of SMS-messages, electronic acquaintance with court case materials and generation of powers of attorney, online participation in court hearings, electronic commencement of an action and submission of documents, and electronic communication about the consideration of the case through the "DIIA" application [16].

The concept, taken as the basis of electronic justice in Ukraine, meets modern requirements and trends in the field of information technologies, and has significant prospects for further development.

At the same time, there are several key aspects that slow down the development of e-judiciary in Ukraine compared to other advanced countries in this field, namely:

Advanced countries already have a developed infrastructure and wide access to the Internet, which is the basis for the effective introduction of technology into the judicial system. Ukraine is also taking steps to improve its infrastructure, but it may take a lot of time and money to reach a similar level.

Some advanced countries are already introducing artificial intelligence into the judicial system to help judges make decisions and analyze evidence. The Smart Court SoS (System of Systems) project in China is one impressive example of such an initiative. The implementation of such a system in Ukraine can have several advantages: artificial intelligence can help automate the process of evidence analysis and ensure faster decision-making, which will contribute to more efficient consideration of administrative cases; artificial intelligence is based on algorithms and data analysis, which helps to provide more objective decisions, not depending on emotions or side factors; automation of evidence analysis and decision-making support can reduce the burden on judges, allowing them to perform their duties more efficiently; artificial intelligence can perform accurate and in-depth analysis of evidence, revealing connections and patterns that may be difficult to detect manually; the use of artificial intelligence can help avoid "human errors" and increase the level of justice. Also, with the help of artificial intelligence, in the future, it will be possible to introduce automated consideration of typical administrative cases, which will significantly reduce the burden on judges and speed up court proceedings.

Advanced countries pay great attention to cyber security and data protection in judicial systems. Ukraine must also ensure a high level of data protection and information security.

Advanced countries and their populations are already actively using electronic platforms for electronic exchange of documents with the court, gradually replacing the paper form of judicial proceedings. In order to encourage the population to switch to the electronic format of judicial proceedings, some countries have taken additional measures, for example, reducing the size of the court fee in case of filing an electronic administrative claim. This approach can be a good example for popularizing electronic

administrative proceedings in Ukraine and encouraging citizens to switch to the electronic format of justice.

Conclusions

The world practice is actively implementing and focusing on information technologies in judicial proceedings, reducing the orality and immediacy of court procedures. One of the most important initiatives of the European community is the creation of standards and recommendations for the implementation of electronic justice in member countries, as well as ensuring the possibility of mutual access to national judicial information and telecommunication systems in the middle of the European Union countries. Studying the foreign experience of implementing electronic justice, it is worth noting that such countries as Korea, China, Lithuania, Estonia, Austria and some others have achieved considerable success in this field. For example, in China Project "Smart Court SoS (System of Systems)" Project "Smart Court SoS (System of Systems)" artificial intelligence has been introduced into the judicial system, which helps judges in making decisions and analyzing evidence. In Korea, electronic courtrooms have been established, which are equipped with electronic technologies and devices for consideration of cases in an electronic format. In Lithuania, in the case of submitting documents in an administrative process electronically through the LITEKO electronic system, users are given a 25 % discount on the payment of the court fee.

Regarding the application of similar practices in Ukraine, it is worth noting that potentially, in the future, a stage may come when artificial intelligence will help solve issues related to the consideration of cases or the writing of court decisions. However, the consideration of cases on their merits and the resolution of complex legal issues require the participation not of a computer and artificial intelligence, but of qualified judges who are able to take into account all aspects of the case and make fair decisions. In our opinion, this applies even to minor cases, as each case is individual. That is, in this case, the subjective factor is important, which artificial intelligence will never be able to replace. E-justice can provide tools to support judges in their work, but not replace them. That is why electronic justice is an effective mechanism precisely for the automation of bureaucratic judicial processes (document circulation, etc.) or, for example, to consider typical procedural issues (opening of proceedings, leaving motionless, etc.). We believe that the use of electronic court hearings, which has been successfully implemented in Korea, is an effective example for Ukraine. This experience can be useful, especially given the active use of court hearings in the video conference mode in Ukraine due to the situation with COVID-19 and the war throughout the country. Also taking into account

the difficulties with the technical support of judges, the implementation of such a practice could be a positive step for the judicial system of Ukraine.

Therefore, the study of European standards and the experience of foreign countries in the field of the functioning of electronic administrative proceedings reveals important aspects that have a high potential for improving the judicial system of Ukraine. Foreign experience shows that the introduction of electronic justice can significantly increase the efficiency of court processes and ensure greater accessibility for citizens. This makes it possible to speed up the consideration of cases, reduce administrative costs and ensure greater transparency in court decisions.

However, it is important to consider that the introduction of e-judiciary should take into account national characteristics and context. Each country has its own unique requirements and challenges that require an individual approach. At the same time, foreign experience can serve as a valuable source of information for improving electronic justice in Ukraine.

References

- [1] Contini, F., & Reiling, D. (2022). Double Normalization: When Procedural Law is Made Digital. *Oñati Socio-Legal Series*, 12(3), 654-688. <https://doi.org/10.35295/osls.iisl/0000-0000-0000-1305>.
- [2] Law of Ukraine No. 228-IV "About the Concept of the Nationwide Program of Adaptation of the Legislation of Ukraine to the Legislation of the European Union". (November 21, 2002). Retrieved from <https://zakon.rada.gov.ua/laws/show/228-15#Text>.
- [3] Decree of the President of Ukraine No. 231/2021 "About the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021-2023". (June 11, 2021). Retrieved from <https://www.president.gov.ua/documents/2312021-39137>.
- [4] Holubieva, N.Y. (2020). *Electronic Justice: International Experience*. Odesa: Phoenix.
- [5] Recommendation Rec (2001) 3 of the Committee of Ministers of the Council of Europe to Member States on the Provision of Judicial and other Legal Services to Citizens Using the Latest Technologies. (February 28, 2001). Retrieved from <https://old.vkksu.gov.ua/userfiles/doc/perelik-dokumentiv/rek-2001-3.pdf>.
- [6] Opinion No. 14 (2011) of the Consultative Council of European Judges to the attention of the Committee of Ministers of the Council of Europe on the Information Technology Justice. (November 7-9, 2011). Retrieved from <https://rm.coe.int/opinion-n-14-2011-on-justice-and-information-technologies-it-/16806a1fc0>.
- [7] Strategy for e-Justice for 2019-2023 2019/C96/04. (March 13, 2019). Retrieved from [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019X-G0313\(01\)&rid=7](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019X-G0313(01)&rid=7).
- [8] Onțanu, E.A. (2023). The Digitalisation of European Union Procedures: A New Impetus Following a Time of Prolonged Crisis. *Law, Technology and Humans*, 5(1), 93-110. <https://doi.org/10.5204/1thj.2706>.
- [9] Online Processing of Cases and e-Communication with Courts: Estonia. Retrieved from <https://e-estonia.com/wp-content/uploads/2020mar-facts-a4-v04-e-justice.pdf>.
- [10] Online Processing of Cases and e-Communication with Courts: Lithuania. Retrieved from https://e-justice.europa.eu/280/EN/online_processing_of_cases_and_ecommunication_with_courts?LITHUANIA&member=1.

- [11] Electronic Legal Transactions (the ERV System). Retrieved from https://www.oesterreich.gv.at/en/themen/dokumente_und_recht/elektronischer_rechtsverkehr_erv.html.
- [12] Supreme Court of Korea: History. Retrieved from <https://eng.scourt.go.kr/eng/judiciary/eCourt/history.jsp>.
- [13] Kadam, Tanmay. (July 16, 2022). China's AI-Enabled "Smart Courts" to Recommend Laws & Draft Legal Docs; Judges to Take Consult AI Before Verdict. *The EurAsian Times*. Retrieved from <https://www.eurasiantimes.com/chinas-ai-enabled-smart-court-to-recommend-laws-judges/>.
- [14] Barabash, T., Humeniuk, I., Levytska, L., & Muza, O. (2022). Innovative Approaches to Judicial Modeling in the Context of E-Democracy: Prospects for Ukraine. *Science and Innovation*, 18(4), 120-130. <https://doi.org/10.15407/scine18.04.120>.
- [15] Mykolenko, O., Dryshliuk, V., Volkova, N., Prytuliak, V., & Verb, O. (2021). E-JUSTICE: Theoretical Principles and Problems of Realization of the Right to Judicial Protection in the Conditions of Digitalization. *International Journal of Computer Science and Network Security*, 21(10), 295-301. <https://doi.org/10.22937/IJCSNS.2021.21.10.42>.
- [16] Maika, M. (2022). The Implementation of E-justice within the Framework of the Right to a Fair Trial in Ukraine: Problems and Prospects. *Access to Justice in Eastern Europe*, 3(15), 249-262. <https://doi.org/10.33327/AJEE-18-5.2-n000320>.

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