

DOI: <https://doi.org/10.34069/AI/2023.68.08.3>

How to Cite:

Teremetskyi, V., Boiko, V., Malyshev, O., Seleznova, O., & Kelbia, S. (2023). Electronic judiciary in Ukraine: Problems of implementation and possible solutions. *Amazonia Investiga*, 12(68), 33-42. <https://doi.org/10.34069/AI/2023.68.08.3>


## Electronic judiciary in Ukraine: Problems of implementation and possible solutions

### Електронне судочинство в Україні: проблеми впровадження та можливі шляхи їх вирішення

Received: June 5, 2023

Accepted: July 20, 2023

Written by:


**Vladyslav Teremetskyi<sup>1</sup>** <https://orcid.org/0000-0002-2667-5167>**Viacheslav Boiko<sup>2</sup>** <https://orcid.org/0000-0002-3505-4530>**Oleksandr Malyshev<sup>3</sup>** <https://orcid.org/0000-0002-5796-7808>**Olha Seleznova<sup>4</sup>** <https://orcid.org/0000-0001-5095-277X>**Stella Kelbia<sup>5</sup>** <https://orcid.org/0000-0002-1817-8160>


#### Abstract


The purpose of the article is to study the possibilities to administer judicial proceedings with the use of information technologies at the current stage of judicial reform in Ukraine. The research methods are: formal and logical, analysis and synthesis, comparative and legal, generalization, forecasting, etc. The issue of the possibility and expediency of introducing full-fledged electronic justice in Ukraine in terms of the martial law has been considered. The authors have characterized the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021-2023 in the context of ensuring the development of e-judiciary. The organizational and legal, financial and technical problems on the implementation of the Electronic Court and the Unified Judicial Information and Telecommunication System have been defined. The authors have characterized the factors that must be taken into account while adopting a law on the effective regulation of remote and electronic justice in terms of the martial law or the state of emergency. It has been emphasized that

#### Анотація


Метою статті є дослідження можливостей здійснення судочинства з використанням інформаційних технологій на сучасному етапі судової реформи в Україні. Методами дослідження є: формально-логічний, аналізу та синтезу, порівняльно-правовий, узагальнення, прогнозування тощо. Розглянуто питання можливості та доцільності запровадження повноцінного електронного судочинства в Україні в умовах воєнного стану. Автори охарактеризували Стратегію розвитку системи правосуддя та конституційного судочинства на 2021-2023 роки в контексті забезпечення розвитку електронного судочинства. Визначено організаційно-правові, фінансові та технічні проблеми впровадження Електронного суду та Єдиної судової інформаційно-телекомунікаційної системи. Автори охарактеризували чинники, які необхідно враховувати при ухваленні закону щодо ефективного регулювання дистанційного та електронного правосуддя в умовах воєнного чи надзвичайного стану. Наголошено, що основним

<sup>1</sup> Doctor in Law, Professor, leading research scientist of the Department of International Private and Comparative Law, Academician F.H. Burchak Scientific Research Institute of Private Law and Entrepreneurship, National Academy of Legal Sciences of Ukraine, Kyiv, Ukraine. WoS  Researcher ID: Y-1755-2018

<sup>2</sup> Ph.D. in Law, Associate Professor, doctoral student of the Scientific Institute of Public Law, Kyiv, Ukraine. WoS  Researcher ID: JEF-8477-2023

<sup>3</sup> Ph.D. in Law, postdoctoral fellow, Koretski Institute of State and Law of the National Academy of Sciences of Ukraine, Kyiv, Ukraine. WoS  Researcher ID: K-2937-2017

<sup>4</sup> Doctor in Law, Associate Professor, Head of the department of professional and special legal disciplines, Private Higher Educational Institution «Bukovinian University», Chernivtsi, Ukraine. WoS  Researcher ID: V-6649-2019

<sup>5</sup> Ph.D. in Law, Associate Professor, dean of the law faculty of the Bukovina University, Private Higher Educational Institution «Bukovinian University», Chernivtsi, Ukraine. WoS  Researcher ID: JEP-2662-2023

the main indicator for the effective functioning of remote justice should be maintaining a balance between ensuring the right to access to justice and ensuring the safety of court proceedings participants.

**Key words:** access to justice, electronic court, electronic office, information technologies, unified judicial information and telecommunication system, electronic document, electronic evidence.

## Introduction

Access to justice covers a complex of human rights (the right to a fair trial, the right to an effective remedy, etc.), an integral part of which is the right to justice through various means and forms of electronic justice that is important for certain groups of the population, who have certain restrictions, who are in special conditions or live on a territory with a special legal regime (persons with disabilities, victims of crime, prisoners, persons in custody, martial law or state of emergency, etc.).

Introduction of the martial law in Ukraine related to the military aggression of the Russian Federation influenced on all the functioning spheres of Ukrainian society. In particular, the access of citizens to justice has become much more difficult. There are frequent cases of impossibility for judges and other court proceedings participants to be in courtrooms due to air alarms, blackouts, etc. Besides, many courts do not have the conditions to ensure at least minimal protection from shelling. Some courts are located in emergency buildings or located near strategic facilities, police stations, military units, etc. Holding court hearings in such premises does not guarantee the safety of visitors (LB.ua website, 2022).

The problem of ensuring the safety of court proceedings participants and timely hearing of cases under such conditions brought up the issue of the possibility of using modern information technologies during judicial proceedings, in particular, the execution of all procedural actions through electronic means of communication with the appropriate identification and security mechanisms (Filatov, 2017, p. 8). Besides, Ukraine has recently demonstrated significant results of digital transformation in the field of public service provision.

Therefore, it is offered to solve the difficulties associated with access to justice in this case by building fully functioning subsystems “Electronic Court” and “Electronic Office”

показником ефективного функціонування дистанційного правосуддя має бути дотримання балансу між забезпеченням права на доступ до правосуддя та забезпеченням безпеки учасників судового процесу.

**Ключові слова:** доступ до правосуддя, електронний суд, електронний кабінет, інформаційні технології, єдина судова інформаційно-телекомунікаційна система, електронний документ, електронний доказ.

(Kibenko, 2023), by making amendments to the procedural legislation in terms of simplifying the interaction between the population and the court and by creating appropriate technical capabilities in the courts themselves (in particular, in terms of requirements for the form of procedural documents that are sent to the court in electronic form, at least during a certain “transitional period”, guaranteeing the possibility of participating in the court hearing in videoconference mode, etc.) (Verkhovna Rada of Ukraine, 2023, p. 99).

Therefore, clarification of the issue regarding the possibility and expediency of introducing full-fledged electronic justice in Ukraine is currently relevant and needs to be resolved. Herewith, the success of the modern stage of judicial reform in Ukraine depends on its proper scientific and practical solution. At the same time, it should be remembered that online services provided by judicial agencies, remote court hearings and video conferences, as well as the further development of digital justice must always be carried out in accordance with the fundamental rights and principles of a fair trial (CEPEJ, 2020, principle 5).

Given the above, the purpose of the article is a thorough study of the possibility of implementing judiciary by using modern information technologies, in particular, by studying the effectiveness of the mechanisms for the implementation and full functioning of the “electronic court” at this stage of the judicial reform in Ukraine in terms of the military aggression of the Russian Federation.

## Literature Review

The issue of improving public relations in the sphere of judicial administration in Ukraine has recently become quite popular. It is related to the judicial reform aimed at finding optimal and effective mechanisms for the functioning of the judicial system. Special attention is paid to the

development and implementation of new or additional means of ensuring a person's access to justice. The implementation of electronic justice by using various forms and means, which is important in terms of the martial law in Ukraine, is among such means.

The scientific and theoretical basis of this research is the works of modern Ukrainian lawyers from various branch disciplines, focused on the problems of access to justice at the current stage of judicial reform in Ukraine, as well as focused on debatable issues of the introduction of the latest information technologies in this area.

Thus, the authors of the article studied and used the works of Ukrainian scholars, focused on: the characteristics of reformation processes in the sphere of justice in Ukraine, as well as problems that arise during the implementation of the main provisions of the Strategy for the Development of the Justice System and possible ways to eliminate them (Bandurka et al., 2023); on the analysis of the availability of justice within Ukrainian administrative judicial system, its specific features in terms of the martial law and the possibilities of its improvement due to the implementation of European standards into the legislation of Ukraine (Krupchan et al., 2023); on the research of existing judicial and extrajudicial methods of applying to compensate for damages caused by armed conflicts on the example of Ukrainian legislation (Onishchenko et al., 2023, pp. 522-537).

Scientific and expert, analytical and legal publications of leading Ukrainian lawyers have been also used while writing the article, which are posted on well-known analytical and news websites (for example, *LB.ua Website*, 2022; *Sudovo-yurydychna hazeta Website*, 2022b; *Sudova vlada Ukrainy*; High Council of Justice), etc.

### Methodology

The object of the research is public relations in the sphere of justice administration in Ukraine. The subject matter of the research is the analysis of the problems for implementing electronic justice in Ukraine and forming authors' suggestions for their solution within the scientific and practical plane.

The regulatory basis of the research is: the main provisions of the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021-2023, which relate to the introduction of digital technologies during the administration of justice in Ukraine; draft laws on the implementation

of judicial proceedings in terms of the martial law or the state of emergency, in particular, focused on the introduction of remote judicial proceedings in terms of the martial law in Ukraine; certain provisions of the Concept for reforming the court system with the aim of improving the access to justice, prepared by the Research Service of the Verkhovna Rada of Ukraine; draft Resolution of the Verkhovna Rada of Ukraine "On approval of the list of tasks and projects of the National Informatization Program for 2023"; other national and international regulatory legal acts that regulate legal relations in the field of electronic justice. Generalization of the practice of the Supreme Court, analysis of the position of the High Council of Justice in the context of the researched issues in the article, political and legal journalism, etc. constitute the information and empirical basis of the article.

The methodological basis of the article is a set of general scientific and special methods of scientific cognition that relate to the subject matter of the research. Thus, the dialectical method is applied to the general characteristic of electronic justice as an additional mean of ensuring access to justice. The methods of abstraction and generalization were used to find out the specifics of the implementation of full-fledged electronic justice in Ukraine in terms of the martial law. The methods of analysis and synthesis made it possible to identify organizational and legal, financial and technical problems associated with the implementation of the Electronic Court and the Unified Judicial Information and Telecommunication System and to summarize the information regarding understanding. Modeling and forecasting methods made it possible to determine the ways to improve the implementation of remote and electronic justice in terms of the martial law or the state of emergency. The comparative and legal method was used to generalize the experience of different countries in solving the issue of the physical location of judges, the secretary of the court session and other participants in the proceedings during the remote hearing of the case. The method of analysis and generalization made it possible to draw conclusions based on the conducted research.

### Results and Discussion

#### Electronic judiciary as an additional mean of ensuring access to justice

The following factors are current obstacles to improving access to justice in Ukraine, in the context of the effective functioning of electronic

judiciary: the slow development of digitalization of judicial proceedings, new online platforms for resolving disputes, as well as organizational and legal, financial and technical problems with the implementation of the Electronic Court and the Unified Judicial Information and Telecommunication System (hereinafter – UJITS).

The Chairman of the Supreme Court V. Kniaziev defined the main tasks for the judicial power for the next five years at the solemn meeting of the Plenum of the Supreme Court on December 15, 2022. Digitization of justice was called one of those tasks (Sudova vlada Ukrainy website, 2023). At the same time, the insufficient level of implementation of digital technologies in the administration of justice is recognized as the main problem in the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021-2023 (hereinafter referred to as the Strategy) (Decree of the President of Ukraine No. 231/2021, 2021), which necessitates further improvement of the functioning of judicial power and the administration of justice in Ukraine.

The Strategy is currently the legal basis for judicial reform in Ukraine. According to clause 4.1 of the Strategy improving access to justice can be ensured through the development of electronic justice taking into account world standards in the field of information technologies by:

- introduction of the possibility of online hearings of certain categories of cases regardless of the location of the parties and the court and other electronic judicial services;
- introduction of modern electronic record keeping in the court, electronic case management, electronic communications with the court, the judge’s office and the office of a proceedings participant;
- improvement and development of the official web portal of the judicial power of Ukraine for obtaining information about courts and cases (proceedings) with regular updates of court statistics (Decree of the President of Ukraine No. 231/2021, 2021).

It should be noted that the introduction of an electronic system to ensure the movement of materials through court authorities in a paperless form (UJITS) was provided by the Law of Ukraine “On Amending the Commercial Procedural Code of Ukraine, Civil Procedural Code of Ukraine, Code of Administrative

Proceedings of Ukraine and other legislative acts” dated from October 3, 2012 No. 2147-VIII (Law of Ukraine No. 2147-VIII, 2017). The main purpose of the adoption of the specified Law is the gradual introduction of the tools of “electronic justice”, in particular, giving any person the opportunity to apply to court, pay a court fee, participate in the case hearings and receive the necessary information and documents by electronic means, standardizing the procedure for providing and researching electronic evidence, etc. (Filatov, 2017, p. 3).

The UJITS according to the provisions of the current procedural codes in Ukraine was supposed to operate in 2017. However, the specified system actually started working only in January 2019. According to the plan, it should gradually ensure the automation of the lion’s share of proceedings taking place in courts: document circulation, in particular between participants in cases, centralized storage of materials, automated distribution of cases, video conferencing, collection and processing of statistical data, etc. It was planned that 8 out of 18 modules of the system would start working in a test mode in March 2019. However, only three were fully operational as of 2021 for some reasons, namely: the subsystem “Electronic Office”, “Electronic Court”, as well as the videoconferencing module (LB.ua website, 2023).

D. Maslov, who is the Chairman of the Committee on legal policy of the Verkhovna Rada of Ukraine, noted that the processes of introducing electronic justice are the priority in the field of judicial reform for 2023. However, the Ruling of the Cabinet of Ministers of Ukraine dated from December 23, 2022 No. 1191-r, which approved the Action Plan for 2023 regarding the transfer of public services to electronic form (Ruling of the Cabinet of Ministers of Ukraine No. 1191-r<sup>2022</sup>), does not provide for some reason the transfer of executive documents into electronic form and the full-fledged launch of the UJITS.

We would like to note that the digitalization of the judicial branch of power involves the implementation and full functioning of electronic justice. At the same time, in accordance with the Order of the Head of the State Judicial Administration of Ukraine O. Salmikova dated from January 13, 2023, which approved a new edition of the Anti-Corruption Measures Plan in the State Judicial Administration of Ukraine entitled “Tasks and measures for the implementation of the principles of the anti-

corruption policy of the State Judicial Administration of Ukraine” (Order 14, 2023) the main changes in the digitalization of the judicial branch of power will come only in 2024-2025. At the same time, full-fledged electronic justice should start working only at the beginning of 2025. Until now, the following measures have been gradually introduced:

- 1) the implementation of the Unified State Register of Executive Documents is planned by August 2023, taking into account the architectural requirements for further application of data array technologies;
- 2) it is provided by December 2023:
  - development of software and introduction of technical equipment necessary to ensure the formation and maintenance of judges’ files (file of a candidate for the position of a judge) in electronic form in the UJITS;
  - creation and implementation of the electronic procedural record keeping system as part of the UJITS;
  - implementation of the Unified State Register of Executive Documents as part of the UJITS;
- 3) provision of data exchange and technical possibility of the interaction between the Automated System of Executive Proceedings and the Unified State Register of Executive Documents until February 2024;
- 4) preparation and approval of the Provision that determines the procedure for functioning of the subsystem by March 2024, which ensures the formation and maintenance of judges’ files (file of a candidate for the position of a judge) in electronic form in the UJITS (the SJA – is co-executor);
- 5) development and approval of the Regulation on the UJITS by June 2024 by the State Judicial Administration of Ukraine, which determines the procedure for the functioning and application of all subsystems (modules).

Therefore, the UJITS is currently not working properly. The COVID-19 pandemic, military aggression of the Russian Federation against Ukraine, as well as corruption among the employees of the State Judicial Administration of Ukraine were among the objective obstacles that prevented the full functioning of electronic justice in Ukraine (Bandurka et al., 2023, p. 65). The last factor led to the need to:

- 1) conducting a technical audit of the UJITS aimed at obtaining specific

recommendations regarding the further development of the electronic justice system, in particular the unification of the UJITS with the system of executive proceedings and with the systems of law enforcement agencies;

- 2) transferring the processes of creating electronic justice to the Ministry of Digital Transformation of Ukraine;
- 3) coordinating the specified processes by the Committee on Legal Policy of the Verkhovna Rada of Ukraine (Sudovo-yurydychna hazeta website, 2022a).

It should be noted that more than 4 years have passed since the launch of the UJITS. The system is partially outdated during this time and no longer fully meets the current needs of users: some of its modules do not interact well with each other, have problems with updates, because they were developed at different times and by different contractors. Therefore, there is currently an urgent need to conduct a full-fledged independent audit of the UJITS. It should not only determine the technical capabilities of the existing system and the functional needs of users, but also plan further actions on the path of digitalization of court processes in Ukraine (LB.ua website, 2023).

A positive step in this direction is the draft Resolution No. 9523 “On approval of the list of tasks and projects of the National Informatization Program for 2023” registered by the Cabinet of Ministers of Ukraine on July 24, 2023 in the Verkhovna Rada of Ukraine (Draft Resolution No. 9523, 2023). The Government suggests to the Verkhovna Rada of Ukraine to adopt a new Resolution instead of the current one, where to establish the list of tasks in details related to the digitalization of justice. At the same time, we are talking about the allocation of a specific amount for the informatization of the justice system within the limits of expenditures provided in the Law of Ukraine “On the State Budget of Ukraine for 2023” (Law of Ukraine No. 2710-IX, 2022).

### **The role of remote justice in ensuring the safety of court proceedings participants in terms of the martial law**

The aggression of the Russian Federation against Ukraine has been going on for over one and a half year. As a result, part of the territory of our country was under occupation, and millions of citizens were forced to move to other regions of Ukraine and abroad. Despite this, as well as under the introduction of the martial law, the

agencies and institutions of the justice system continue to work, and the courts continue to administer justice.

The legislator has been recently trying to offer the Ukrainian society such amendments to the national legislation that would allow the introduction of effective mechanisms for the implementation of justice in terms of the martial law or emergency situations. First of all, it is about maintaining a balance between ensuring the right of access to justice and ensuring the safety of participants in court proceedings.

The Ukrainian Parliament has tried three times to regulate the implementation of remote justice at the legislative level since the full-scale invasion. However, the first draft Law of Ukraine dated from May 24, 2022 No. 7404 “On Amending the Code of Ukraine on Administrative Offenses Regarding the Implementation of Judicial Proceedings in Terms of the Martial Law” was rejected on August 16, 2022 (Draft Law of Ukraine No. 7404, 2022). The second draft Law was rejected by the Verkhovna Rada of Ukraine on July 1, 2022 (Draft Law of Ukraine No. 7316, 2022). The third draft Law is only at an intermediate stage of its development and review and has many comments (Draft Law of Ukraine No. 8358, 2023).

Such a slow state of solving the outlined problem is related to some fears that the introduction of remote justice may lead to an increase in abuses by judges, negatively affect the compliance with the requirements of public hearings of cases, as well as increase the risks of disruption of court sessions due to technical problems of communication means, etc. (Sobol, 2023, p. 11). At the same time, the idea of introducing full-fledged remote justice finds its support both among the experts and among the majority of the country’s population. Besides, the European Commission for the Efficiency of Justice (CEPEJ) of the Council of Europe noted that further expansion of remote justice meets the needs of modern times, since it gives the judicial system the opportunity to act where a complete shutdown of the courts would be the alternative (CEPEJ, 2022, p. 4). In addition, the CEPEJ emphasized in its previous report that ensuring the safety of all employees of the justice system, as well as court visitors, should be a priority. Employees must be able to work remotely and be provided with the necessary secure IT equipment (CEPEJ, 2020).

As one knows, the Constitution of Ukraine does not directly regulate the format of remote justice,

but it does not contain its prohibitions either. At the same time, Part 3 of the Art. 129 of the Constitution of Ukraine specifies that “Other principles of judiciary may also be determined by law” (Law of Ukraine No. 254k/96-VR, 1996). According to the opinion of the Administrative Court of Cassation as part of the Supreme Court, it means that the list of principles for judicial proceedings can be specified at the legislative level, in particular detailed or supplemented by new provisions that meet the needs of modern times that they do not conflict with the Constitution of Ukraine. Judges of this court insist on the introduction of a remote format of judicial proceedings, at least during the martial law (Sudovo-yurydychna hazeta website, 2022a). The High Council of Justice also supported the need for the earliest possible introduction of remote justice during the war (High Council of Justice website, 2022).

There is already a positive experience of using the latest information and communication technologies and other technical innovations in Ukraine like in many world countries due to the global pandemic of COVID-19 while hearing various categories of cases in courts. However, such factors and problems must be taken into account when adopting the law for the effective regulation of remote and electronic justice in terms of the martial law or the state of emergency.

The use of communication means (mobile network, Internet resource, etc.) by court proceedings participants may be impossible (for example, due to the damage to power lines, communication lines, hacker attacks, power outages, the presence of a person in the area of hostilities or on temporarily occupied territory, which does not ensure free and uninterrupted access to the Internet or the availability of mobile communications). Therefore, the ability to timely receive or familiarize with the relevant call or message through a telephone message, SMS, etc. can become significantly more difficult.

Besides, access to the Register of Court Decisions has been limited for almost a year in order to prevent threats to the life and health of judges and court proceedings participants. And in case of detection of cyber threat signs, access to the Register or certain decisions there may be restricted at any time. Therefore, the implementation of the practice of mandatory notifications (summons, notices, etc.) on the official web portal of the judicial power of Ukraine is impractical (Apparatus of the Supreme Council of Ukraine, 2023, pp. 3-4).

Further expansion of remote (online) hearings, including the remote participation of judges, court secretaries, witnesses and experts and the admission of new forms of recording court hearings, as well as giving the court the opportunity to make decisions in electronic form or to publish them on court websites is possible and expedient, if the remote hearings meet the basic requirements that guarantee its fairness (CEPEJ, 2022 p. 4-5). At the same time, we note that the possibility of conducting dispute resolution in the mode of videoconference outside the court premises by using its own technical means cannot adequately protect against the transpiration about the progress and results of dispute resolution with the participation of the judge (Apparatus of the Supreme Council of Ukraine, 2023, p. 7). Indicative in this aspect is the decision of the Criminal Court of Cassation as part of the Supreme Court, which annulled the decision of the Court of Appeal in the case of seizure of property, during the hearing of which the Court of Appeal allowed the defence attorney of one of the accused to participate in the hearing by means of a telephone call (The Supreme Court of Ukraine, 2023). Returning the case for a new hearing, the Criminal Court of Cassation noted that the Court of Appeal did not make a decision regarding the participation of the defence attorney in the mode of videoconference, as it is required by the Criminal Procedural Code of Ukraine.

It is necessary to decide on the issue of the physical location of judges, the secretary of the court session and other participants in the proceedings during the remote hearing of the case. To accomplish this, the experience of different countries in solving this issue should be studied. Thus, the physical presence of the judge in the court premises is required in some countries, in others it is not required. Some countries find intermediate solutions, such as requiring the presence of only the chairman of the panel of judges (CEPEJ, 2022 p. 4). Therefore, Ukraine, taking into account the positive international experience, should regulate the issue of physical absence of judges in the court premises during the remote hearing of cases at the legislative level, provided that such hearing meets the basic requirements that guarantee its fairness.

In accordance with the requirements of Recommendation CM/Rec (2010)12 of the Committee of Ministers of the Council of Europe (Council of Europe, 2010), judges must be provided with the information necessary to take appropriate

procedural decisions, if such decisions have financial consequences. In particular, it is about granting judges the right of direct access to automated information and telecommunications and reference systems, registers, data banks, the holders (administrators) of which are state agencies or local self-government agencies (Decree of the President of Ukraine No. 231/2021, 2021).

Besides, the possibility of remote access of judges to the document management system should be introduced, in case if the access to this system is ensured by using the judge's own qualified electronic signature. The appropriate procedure and conditions for remote access must be approved by the State Judicial Administration and agreed by the High Council of Justice (Explanatory notice 47d9/1-2023/4698, 2023, p. 3).

It is also important to prescribe in details the procedure of remote judicial proceedings in the new Law, i.e. a clear algorithm of actions both for judges and court proceedings participants.

It should be noted that the position regarding the administration of justice by judges during military aggression outside the court is actively supported by the High Council of Justice. The main argument is the need to ensure the safety of judges, staff of court apparatus and court proceedings participants. Moreover, the High Council of Justice insists on the importance of the immediate settlement of this issue in the legislation of Ukraine, since several disciplinary complaints are currently pending against judges who administered justice in this way (High Council of Justice website, 2022).

The Law of Ukraine No. 3200-IX regarding mandatory registration and use of electronic offices within the Unified Judicial Information and Telecommunication System for the participation in court proceedings (Law of Ukraine No. 3200-IX, 2023) came into force on June 29, 2023. At the same time, the Law states that defence attorneys, notaries, state and private enforcement employees, arbitration managers, judicial experts, state authorities, other state agencies, local self-government agencies, and other legal entities must register their electronic offices in the Electronic Court.

Registration and use of the electronic office is free of charge; an electronic digital signature and a little time are required for the registration. The electronic office is the only one, regardless of the jurisdiction and instance of the court, where you

participate in the case. The court will currently apply the procedural consequences to the new categories of persons specified in the Law and to the case participants, who were obliged to register their electronic offices in the UJITS since 2017, but have not yet done so. The consequences are the following: the court does not consider, but leaves it motionless or returns the procedural documents submitted by them. It also concerns cases, when the interests of such persons are represented by a defence attorney.

Therefore, the gradual transition from the paper form of the exchange of procedural documents between the court and court proceedings participants to the electronic form significantly simplifies the access of citizens to justice, saves time and money for the participants, speeds up the consideration of cases, makes it possible to carry out all procedural actions through electronic communication means with appropriate identification and security mechanisms, etc.

## Conclusions

The introduction of electronic justice is an important component of judicial reform in Ukraine. Herewith, the functioning of the “Electronic Office” and “Electronic court” subsystems, as well as the videoconference mode are additional means of ensuring access to justice. Ensuring the access to justice, which became much more difficult during the war, and the potential reduction of state expenditures on financial and technical support for judicial power depend on its full-fledged implementation.

The main purpose of introducing electronic justice should be to establish a process of operational exchange of information in electronic form between judicial institutions, court proceedings participants, as well as other state agencies in order to ensure fair and impartial justice in Ukraine. At the same time, it is important to ensure the maximum dissemination of information about court hearings, generalization of case-law, other legal information by overcoming the existing gap between a person and the court.

We believe that the full functioning of electronic justice is possible only after the end of the war during the post-war reconstruction of Ukraine. A significant part of the population of Ukraine due to military actions and other objective factors (for example, the lack of proper telecommunications equipment in certain regions of Ukraine, the low level of financial support of part of the country's

population) does not currently have access to the specified electronic resource. Therefore, the implementation of this procedural mechanism as mandatory one, in particular the execution of all procedural actions through electronic means, is premature and objectively impossible at this stage of judicial reform. In practice, it may lead to violations of the rights of court proceedings participants and violations of the principles of transparency and openness of the legal process.

The authors of the article stand on the position of the need to accelerate the introduction of the latest information technologies as important and effective tools for the organization of judicial proceedings. To accomplish this, we should increase the funding for the development of additional electronic measures to ensure the access to the court (in particular, the “Electronic Court” system, means of conducting remote court hearings, etc.). At the same time, the priority should be to ensure cyber security and to protect personal data.

## Bibliographic references

- Apparatus of the Supreme Council of Ukraine (2023). Conclusion on the draft Law of Ukraine “On Amending the Code of Administrative Proceedings of Ukraine, the Civil Procedural Code of Ukraine, the Commercial Procedural Code of Ukraine and other legislative acts on the implementation of the judiciary during the martial law or the state of emergency and the settlement of disputes with the participation of judges” of 13 January 2023. The Main Scientific and Expert Department of the Apparatus of the Verkhovna Rada of Ukraine. [File PDF]. Recovered from <https://itd.rada.gov.ua/billinfo/bills/pubfile/1649930>
- Bandurka, O., Teremetskyi, V., Boiko, V., Zubov, O., & Patlachuk, V. (2023). Current Situation of Judicial Reform in Ukraine: Problems and Ways of Their Solution. *Lex Humana*, 15(4), 55-72. Recovered from <https://acortar.link/8xWqar>
- CEPEJ (2022). Analysis of legislative initiatives on improving Ukrainian legislation on the implementation of judicial proceedings in remote (online) regime in terms of the martial law or the state of emergency. October 2022. Recovered from <https://acortar.link/9KTsAd>
- CEPEJ (2020). Lessons learned and challenges facing by the judicial power during and after the COVID-19 pandemic. June 10, 2020. Strasbourg. Recovered from <https://acortar.link/1IJAYB>



- Council of Europe (2010). Recommendation CM/Rec (2010) [U1] 12 (2010). On judges: independence, efficiency and responsibilities. November 17, 2010. Strasbourg. Recovered from <https://acortar.link/fgCzu6>
- Decree of the President of Ukraine No. 231/2021. On the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021–2023, Bulletin of the Verkhovna Rada of Ukraine, Kyiv, Ukraine, June 11, 2021. Recovered from <https://zakon.rada.gov.ua/laws/show/231/2021#Text>
- Draft Law of Ukraine No. 7316. On Amending the Code of Administrative Proceedings of Ukraine, the Civil Procedural Code of Ukraine and the Commercial Procedural Code of Ukraine (regarding the implementation of judicial procedures in terms of the martial law or the state of emergency), Bulletin of the Verkhovna Rada of Ukraine, Kyiv, Ukraine, April 26, 2022. Recovered from <https://itd.rada.gov.ua/billInfo/Bills/Card/39489>
- Draft Law of Ukraine No. 7404. On Amending the Code of Ukraine on Administrative Offenses regarding judicial proceedings in terms of the martial law, Bulletin of the Verkhovna Rada of Ukraine, Kyiv, Ukraine, May 24, 2022. Recovered from <https://itd.rada.gov.ua/billInfo/Bills/Card/39662>
- Draft Law of Ukraine No. 8358. On Amending the Code of Administrative Proceedings of Ukraine, the Civil Procedural Code of Ukraine and other legislative acts regarding the implementation of judicial procedures during the period of the martial law or the state of emergency and the settlement of disputes with the participation of judges, Bulletin of the Verkhovna Rada of Ukraine, Kyiv, Ukraine, January 13, 2023. Recovered from <https://itd.rada.gov.ua/billInfo/Bills/Card/41130>
- Draft Resolution No. 9523. On approval of the list of tasks and projects of the National Informatization Program for 2023, of the Verkhovna Rada of Ukraine, July 24, 2023. Recovered from <https://ips.ligazakon.net/document/di09600a?an=2>
- Explanatory notice 47d9/1-2023/4698 of 2023 Apparatus of the Verkhovna Rada of Ukraine. Which provides comments to the draft Law of Ukraine on amending the Code of Administrative Proceedings of Ukraine, the Civil Procedural Code of Ukraine, the Commercial Procedural Code of Ukraine and other legislative acts on the implementation of justice during the martial law or the state of emergency and the settlement of disputes with the participation of judges. January 9, 2023. Recovered from <https://itd.rada.gov.ua/billInfo/bills/pubfile/1608269>
- Filatov, O. (2017). Explanatory notice to the draft Law of Ukraine “On Amending the Commercial Procedural Code of Ukraine, the Civil Procedural Code of Ukraine, the Code of Administrative Proceedings of Ukraine and other legislative acts”. Bulletin of the Verkhovna Rada of Ukraine, Kyiv, Ukraine. Recovered from <https://acortar.link/DfTsjF> (In Ukrainian)
- High Council of Justice Website. (July 25, 2022) The High Council of Justice supports the draft Law on the fastest introduction of remote judiciary in terms of the martial law. Recovered from <https://acortar.link/wlMa8J>
- Kibenko, O., (2023). The future of online courts in Ukraine: is it digitizing the existing proceedings or digital transformation of justice? Law newspaper, 1–2, 759-760. Recovered from <https://acortar.link/6moavj> (In Ukrainian)
- Krupchan, O., Salmanova, O., Makarenko, N., Paskar, A., & Yatskovyna, V. (2023). Access to Justice within Administrative Proceedings of Ukraine: Modern Realities and European Experience. *Cuestiones politicas*, 41(77), 103-115. <https://doi.org/10.46398/cuestpol.4177.07>
- Law of Ukraine No. 2147-VIII. On Amending the Commercial Procedural Code of Ukraine, Civil Procedural Code of Ukraine and other legislative acts, Bulletin of the Verkhovna Rada of Ukraine, Kyiv, Ukraine, October 3, 2017. Recovered from <https://zakon.rada.gov.ua/laws/show/en/2147-19?lang=uk#Text>
- Law of Ukraine No. 254k/96-VR. Constitution of Ukraine, Bulletin of the Verkhovna Rada of Ukraine, Kyiv, Ukraine, June 28, 1996. Recovered from <https://acortar.link/2zidvq>
- Law of Ukraine No. 2710-IX. On the State Budget of Ukraine for 2023, Bulletin of the Verkhovna Rada of Ukraine, Kyiv, Ukraine, November 3, 2022. Recovered from <https://zakon.rada.gov.ua/laws/show/2710-20#text>
- Law of Ukraine No. 3200-IX. On amending some legislative acts of Ukraine regarding the mandatory registration and use of electronic offices in the Unified Judicial Information

- and Telecommunication System or its certain subsystem (module), which ensures the exchange of documents, Bulletin of the Verkhovna Rada of Ukraine, Kyiv, Ukraine, June 29, 2023. Recovered from <https://zakon.rada.gov.ua/laws/show/3200-IX#text>
- LB.ua Website. (April 17, 2023). The following steps of judicial reform: what are they? Blog of the Pravo-Justice Project. Recovered from <https://acortar.link/g15Xxs>
- LB.ua Website. (December 22, 2022). Remote justice: an integral element of successful judicial reform. Blog of the Pravo-Justice Project. Recovered from <https://acortar.link/PFqyti>
- Order 14 of 2023. State Judicial Administration of Ukraine. Anti-Corruption Program for 2022-2024. January 13, 2023. Recovered from <https://acortar.link/X8UUp2>
- Onishchenko, N., Teremetskyi, V., Bila, V., Chechil, Y., & Kostenko, M. (2023). Judicial and Extrajudicial Proceedings to Compensate for Damages Caused by Armed Conflicts: Experience of Ukraine. *Lex Humana*, 15(3), 522-537. <https://acortar.link/uyB1Uz>
- Ruling of the Cabinet of Ministers of Ukraine No. 1191-r. On approval of the Action Plan for 2023 on the transfer of public services into electronic form, Bulletin of the Verkhovna Rada of Ukraine, Kyiv, Ukraine, December 23, 2022. Recovered from <https://zakon.rada.gov.ua/laws/show/1191-2022-%D1%80#text>
- Sobol, Ye. (2023). The activity of the court as a law enforcement body in the implementation of electronic justice. *Scientific Bulletin of Dnipropetrovsk State University of Internal Affairs*, 1, 8-13. (In Ukrainian)
- Sudova vlada Ukrainy Website. (January 24, 2023). The path to the rule of law in Ukraine: Vsevolod Kniaziev summed up the results of 5 years of activity of the Supreme Court. Recovered from <https://court.gov.ua/press/news/1373446/>
- Sudovo-yurydychna hazeta Website. (December 8, 2022a). The Constitution does not directly regulate the form of remote justice, and does not contain its prohibition – the Supreme Court. Recovered from <https://acortar.link/czNBf0>
- Sudovo-yurydychna hazeta Website. (December 28, 2022b). The Chairman of the Committee on Legal Policy has announced priorities in the field of judicial reform implementation for 2023. *Sudovo-yurydychna hazeta*. Recovered from <https://acortar.link/d0yw4g>
- The Supreme Court of Ukraine. (2023). First Judicial Chamber of the Criminal Court of Cassation. Process 225/127/17; June 13, 2023. Recovered from <https://acortar.link/O8WGGC>
- Verkhovna Rada of Ukraine (2023). The Concept of reforming the court system in order to improve access to justice. Research Service of the Verkhovna Rada of Ukraine. June 30, 2023, 118 p. Recovered from <https://research.rada.gov.ua/uploads/documents/32447.pdf>