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**DIGITAL PARTICIPATION: MANAGEMENT AND LEGAL FRAMEWORK**

**Abstract.** The paper explores the issues faced when shaping the legal framework for electronic democracy in Ukraine and management for further development. Special focus is on the pilot local and regional concepts of e-democracy, and on digital participation developed in Vinnytsia, Dnipro, and Vinnytsia region. Authors analyze compliance of local and regional concepts with the National Concept for E-democracy Development in Ukraine approved by the Cabinet of Ministers of Ukraine in November, 8, 2017. For the most part, the documents comply with the National Concept and provide the detailed strategy for electronic democracy and digital participation development on the regional and local levels. The current situation demonstrates that an effective management system should be in place for the decision-making process that includes all target groups.

The article also considers shortcomings of integrative and autonomous approaches of electronic democracy tools, and indicates the need to use integrative approach in management for drafting regional and local policies in electronic democracy. Authors consider that national legal framework should be the basis to develop local and region-

al solutions since the key element is democracy of decision-making. This is provided by coordination of policies of different levels for making e-decisions in the area of participation in addition with the management approach for its sustainable functioning.

Digital participation requires effective strategical framework together with the effective usage of digital tools and citizen involvement in the decision-making processes.

Finally, authors admit that a coherent regulatory framework for e-governance and e-democracy, and common management approaches and standards for the development of digital tools will increase the transparency, openness and participation in the decision-making processes.

**Keywords:** e-democracy, management, decision-making process, digital participation, electronic democracy in Ukraine, National Concept on e-democracy development in Ukraine, local and regional concepts, participatory democracy

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**Introduction.** After the 2014 Revolution of Dignity, Ukraine has experienced transformations that require both efficient performance of authorities, and proactive position of civil society. Therefore, joint efforts provide the grounds for strategic policies and operational steps. Significant areas are e-governance and e-democracy that shall enhance current institutions and shape the agenda for the state and for individual localities. This is why the development of strategic policies and documents pursued the objective to regulate and highlight current trends in these areas to consolidate the efforts therefor.

Resolution of the European Parliament dated March, 16, 2017, on e-democracy in the EU: prospects and challenges (2016/2008(INI)) puts a special focus on the fact that e-democracy tools could foster more active position of citizens through enhanced participation, transparency, and accountability in decision-making; through support of mechanisms of democratic control in order to better empower citizens in their expression of positions in political life. New digital tools, communication platforms, and open platforms could provide new solutions for better political participation and engagement of citizens, and could facilitate trust, transparency and accountability in the democratic system.

In addition to prospects of e-democracy, the document also states the use of digital participation as its key feature. In particular, it is mentioned that many cases of national, regional, and local e-participation could be illustrations of how information and communication technologies are used in participatory democracy and encourage further development of such practices on national and local levels [Resolution of the European Parliament 2017]. It should also be clearly stated that there must be additional animation processes which will ensure decision making is more inclusive and effective.

According to the Guidelines on Citizen Participation in Political Decision-Making adopted by the Committee of Ministers on September, 27, 2017, at the meeting 1295 of the Ministers' Deputies, member states of the Council of Europe are encouraged to use views, information, and expertise provided through participatory processes and to promote the culture of efficient participation based on respect for human rights, democracy, and rule of law.

Analysis of the types of citizen participation reveals that dissemination of information can be taking place both on paper (offline), and online, while the consulting process

shall be supported with various forms, including also with digital tools. One of the activities to implement participatory processes shall be the development of guidelines, booklets, and other online and paper tools, as well as a number of trainings for civil society in this area [Guidelines, Committee of Ministers 2017]. Within the Evaluation of Special Advisor of the Government of Ukraine on Decentralization "Tools for Participatory Democracy: European Standards and Practices" dated April, 6, 2017, for the Office of the Council of Europe of Ukraine, there is an incomplete list of participation tools that are already functioning in Ukraine, including also e-petitions and participatory budget [Special Advisor of the Government of Ukraine on Decentralization 2017].

However, it is important to mention that even the availability of a range of tools on local, regional, or even national levels, does not facilitate sustainable development of e-democracy. It is also confirmed by the recent research findings of the UN on e-governance, which show that according to E-Participation Index for 2016-2018, Ukraine has dropped by 43 positions, from 32nd down to 75th position out of 193 UN member-states [United Nations E-Government Survey 2018], while in the period from 2014 to 2016, Ukraine showed significant progress climbing by 45 positions up [United Nations E-Government Survey 2016]. However, analysis of the E-Participation Index according to 3 levels of informing, consulting, and decision-making, shows that Ukraine rates the following (out of 100%): 63.33% - informing; 65.22% - consulting; 81.82% - decision-making. The component for decision-making reveals significant progress from 2014 till 2018, from 0% to 81.82%. It is a sign of a positive trend for engaging citizens into decision-making [United Nations E-Government Survey 2018].

Therefore, one of the key challenges is to establish sustainable strategy for development and implementation of the area of e-democracy through designing an integrated legal framework and effective management approach in this field.

**Literature review and the statement of the problem.** Aspects of governance and e-democracy development were studied in the works of Anderson L. [Anderson, Bishop 2005], Clift S. [Clift 2004], Coleman S. [Coleman, Blumler 2009], Gastil J. [Gastil, Richards 2017], Hague, B. N. [Hague, Loader (eds) 1999], Hale S. A. [Hale, John, Mar-getts, Yaseri 2018], Kneuer M. [Kneuer 2016], Nam, T. [Nam, Stromer-Galley 2012], Twizeyimana, J. D. [Twizeyimana, Andersson 2019] and others. The issue of enterprises' digitalization was studied in the works of H. Dzwigoł [Dzwigoł 2004; Dzwigoł 2013; Dzwigoł 2014; Dzwigoł 2015; Dzwigoł 2016a; Dzwigoł 2016b] and others.

It must be noted that in addition to the national Concept for e-Democracy Development approved by the Cabinet of Ministers of Ukraine, Ukraine has a number of pilot local and regional Concepts for e-Democracy developed. In fact, the goal of this research is to analyze current available experience of legal framework for development of e-democracy to enhance the progress on local and regional levels, and to shape a general perception of the legal framework for development of e-democracy in Ukraine as well as management approach for the decision-making process.

The paper used the methods of observation, analysis, generalization, and others.

**Research results.** Creating a sustainable system of digital participation requires many elements. Among the elements that must be included are a distinguished legal framework for digital participation that allow processes to happen, digital infrastructure on all levels ranging from local to national, and digital skills possessed by the public authority representatives and citizens. However, most importantly all these elements

should be strengthened by an effective management approach. If we are considering the digital participation, it should be mentioned that there must be two key levels in the system of digital participation. First is the physical animation level and secondly is the digital animation level.

When examining separate management processes, to create representative participation in decision-making it is not enough to only use management systems from the first level that could be called physical animation. This level means the usage of different activities like networking, meetings and so on. It should also be combined with digital systems, which provides more efficient management and access to more information, coverage of people, and the principle of inclusiveness. When discussing a management approach on the local level (level of municipalities) we can distinguish two basic problems.

First is the problem of defining the appropriate approaches and products from the national level to the local level. There are different solutions, systems and databases on the national level that do not carry over to the local level. The second is that we must ponder how to create the local system of digital participation by determining if they will be standardized or unique. When developing viable electronic democracy tools, there are two management approaches. The first is an integral approach when a local or a regional level of e-democracy is integrated into the national level through single platforms, tools, and solutions for the community, the region, and Ukraine. The second approach is an autonomous approach when the basis of the national law has customized solutions (autonomous resources) which are developed for each level of community and authority.

In order to develop the area of e-democracy, any of the approaches can be used. However, both the integrated and autonomous approaches pose certain challenges which have shortcomings. Regarding the autonomous approach, the first issue to be mentioned is the high level of cost to develop unique products, and the need to develop the system of technical support. Another shortcoming is the lack of integration and accumulation of open data based on operations for these resources and data sets.

Regarding the integrated approach, unified solutions fail to cover regional or local areas. In addition, unique solutions and activities are difficult to apply because they are non-standard. Another issue is the threat of using the data or influence on decision-making, as well as high cost to maintain the same understanding and application of these resources. However, we understand that usage of the integrated approach will create a large combined system from small systems and vice versa. If we have the standard core principles and approach that can be used in the management system of e-democracy it provides the possibility to create digital tool usage more efficiently.

Again, there also exists a second problem that becomes apparent when considering the sustainable development from the managerial point of view. Creation of a new system of digital participation requires the necessity of a back office to administer the digital processes. But we cannot fulfill it without the inclusion of the human factor in the management system. It is impossible to create a quality product in the field of electronic democracy without effective management.

The solution that should be implemented is the creation of a back office that will provide answers to questions, provide consultations, form information support article and provide additional functions vital in the decision-making process. There is a need



to create integrated management systems in the field of electronic democracy, but not only with electronic systems that provide statistics, interface, and external perception of the product. What also must be addressed is creating an additional back side - the back office, which communicates different issues. Actually, participatory systems without the presence of human skilled personnel will be unrealistic.

Among the principle trends which are highly visible is the fast pace of development of technology and existing practices in the relevant field. It can be quite difficult to see general trends from the local level. Therefore, one of the key trends that should be considered in the management system indicated in legal framework (in national and local concepts) is the presence of groups that will follow the trends of the electronic democracy development. The combination and concentration of trends and technologies in relation to management needs form a different approach to e-democracy. In this case we do not create a place to be joined but a platform that attracts people to be engaged in the decision-making processes. It is very important to indicate the effective system of digital participation through the forming of legislative basis of e-democracy and digital participation. On November, 8, 2017, Cabinet of Ministers of Ukraine issued the Order No. 797-p dated November, 8, 2017, "On Approving the Concept for Development of E-Democracy in Ukraine and the Plan of Actions for its Implementation" that approved one of the fundamental documents in the field of e-democracy regulating further trends on the national scale. The Concept includes 4 Chapters: regulatory legal framework for development of e-democracy; resourcing for implementation and use of e-democracy tools by authorities; increased readiness of private and legal entities to benefit from the opportunities of e-democracy; providing access to e-democracy tools [Kabinet Ministriv Ukrainy 2017].

In the Plan of Actions for implementation of the Concept, as of 2017-2018, it was planned 17 activities and 47 objectives. The national Concept covers the problem that requires solutions. It is important to note that it includes both the description of the status quo in e-governance and e-participation in Ukraine (according to the United Nations E-government Development Index), and the position in the ranking of Global Democracy Index. According to it, as of 2016, Ukraine held 114th position in the aspect of the government's using ICT.

Moreover, it must be stated that since there is no precise methodology on the status of e-democracy, tracing the current status is possible through a range of rankings and monitorings. Other important issues in this respect include also the need to improve legal framework, low level of engaging citizens to decision-making on national, regional, and local levels; the problem of digital inequality and ignoring the principle of inclusiveness; the problem of identification of citizens, electronic interaction, and a low level of awareness and skills of citizens in e-democracy tools.

Next, a glossary is provided with 13 definitions, including the updated definition of e-democracy as a notion that contributed to the previously functioning definition borrowed from the Strategy for the Development of Information Society in Ukraine (the document is approved by the Order of the Cabinet of Ministers of Ukraine No. 386-p dated 15.05.2013 "On Approving the Strategy for Development of Information Society in Ukraine") [Kabinet Ministriv Ukrainy 2013]. The glossary is followed by the goal and timelines for the implementation of the Concept and the Plan of Actions to implement it, as well as the list of principles that activities in e-democracy shall be based upon.

Since the Concept is planned for four years and is a mid-term document, there is a precise list of objectives that shall be reached during the first (2017-2018) and second stage (2019-2020), which are further included in the section on "Ways and Methods for Solution of the Problem" within the above mentioned four areas (chapters).

After that, the Concept stipulates expected outcomes and the scope of financial, material and technical resources needed for implementation of the planned activities. In addition, it was developed a Plan of Actions for the Concept to implement the first stage. Plan of Actions sets the detailed name of activity, term for implementation, persons in charge, partners, and expected outcomes for each activity.

It shall be stated that currently activities under the Plan of Actions pertaining to the implementation of stage two of the Concept are being considered. If we examine the Concept, it is clear that few aspects mentioned concerning the integrative management approach are mentioned. Firstly, we should admit the unifying the policy in the e-democracy sphere. Moreover, updating existing e-democracy tools and the development of new tools should be made according to defined principles. The digital participation management system should be forced by forming a broad Coalition for the development of e-democracy involving all interested parties. Additionally, the back office that was mentioned must be fulfilled by establishing administrative positions for public officials whose direct competence includes the development and implementation of e-democracy tools. Introducing an accountability mandate for authorities toward citizens as part of the regulation on procedures for reporting and recalls strengthens administrative responsibility for offenses committed. However, for efficient implementation of e-democracy, it is important to cover not only the national level, but also to clearly define strategic areas on regional and local levels.

Thus, under one of the international technical assistance projects, it was developed the regional Concept for Vinnytsia region and in the process of development is the regional Concept for Odesa region. Currently, the local Concept for the city of Vinnytsia and the city of Dnipro are approved. According to the Decision of executive committee of Vinnytsia City Council No. 911 dated 11.04.2019, it was approved the draft resolution of the city council "On Approval of the Concept of Digital Participation of Vinnytsia City Amalgamated Territorial Community 2019-2025" [Vinnytska miska rada 2019].

Within the above-mentioned document, there is a list of definitions for the term of digital participation and e-participation, a.o. It is followed by the preconditions of developing the Concept and the analysis of e-democracy tools currently used in Vinnytsia, such as e-petitions, budget of public initiatives, e-requests, map of appeals from citizens, round-the-clock guard 1560 and online chat for communication, a service "Inform-er for citizens" and online polls. In addition, there is included the data on the position of Vinnytsia in Transparency Rating for 100 biggest cities of Ukraine for 2018 compiled by Transparency International Ukraine, and also on the degree of implementing electronic participation tools in local self-government bodies, as part of annual Monitoring for Implementing e-Governance Tools in local self-government of the biggest cities of Ukraine conducted by Podolian Agency for regional Development NGO, jointly with other partner organizations. Then goes SWOT-analysis of the status of e-democracy in the city of Vinnytsia, followed by the goal and the key idea of the Concept, its target audience that the document will be targeted at, as well as the ways and activities for solving the problem.

In fact, the document stipulates two key areas: establishing the system of digital participation that motivates participation of citizens in the processes of developing and implementing solutions, and the implementation of digital participation tools for citizens [Vinnytska miska rada 2019]. The next section includes the scope of financial, material and technical, and labour resources, and the expected outcomes of the implemented Concept. The Concept is supplemented with the Plan of Actions for its implementation which that lists 17 activities with timelines, bodies responsible for implementation, partners, and expected outcomes. In the future, to implement the Concept and the Plan of Actions, the Programs will be developed with indicators for implementation of planned activities. In general, it can be stated that the structure of the document is approximated to the national Concept but the focus on local services helps identify clear trend for the development of this area.

If we examine this local Concept, we can find the integrative approach to the digital participation development. It is the necessity of improvement of the local legal and regulatory framework of the digital participation tools in accordance to best practices and government standards. The back office will be strengthened by forming a community of people working in the direction of digital participation development comprised of citizens, NGOs, and legal authority representatives. In fact, it is also worth considering the regional Concept for development of e-democracy in Vinnytsia region for 2019-2020, especially its Action Plan that was approved by Vinnytsia State Regional Administration dated 16.04.2019 [Vinnytska oblasna derzhavna administratsiia 2019].

Upon the whole, in terms of structure, the regional Concept for Vinnytsia region complies with the national one. However, it must be noted that the term for implementation of the Concept is planned for 2019-2020, i.e. it is a short-term document. The paper starts with the description of the problem that needs solution via analysis of the situation on e-democracy tools on the regional level. For instance, it is mentioned the lack of respective regulatory legal acts in most localities on the implementation mechanisms for e-democracy tools (including also electronic petitions, electronic consultations). Special focus is made on digital inequality and partial lack of due telecommunication infrastructure (access to Internet).

Then goes a brief glossary on the terms of e-democracy, and a range of its tools, as well as the goal and timelines for implementation, with the list of principles one should be guided by when implementing the document. Areas mentioned in the regional Concept coincide with the previously set areas in the national Concept, such as regulatory legal framework for development of e-democracy; resourcing for implementation and use of e-democracy tools by authorities; increased readiness of national authorities and local self-government to use the opportunities of e-democracy; providing for accessibility of e-democracy tools. Besides, they added a new area related to raising awareness and skills of citizens in using e-democracy tools. After that, there is a list of expected outcomes and the scope of financial, material and technical, and labour resources.

In addition to the Concept, there is a two-year Plan of Actions for 2019-2020. It includes the list of activities, the timeline, and the responsible body in charge of implementation. According to the previously stated 5 areas in the regional Concept, the Plan provides for implementation of 16 activities [Vinnytska oblasna derzhavna administratsiia 2019].

It must be mentioned that in terms of structure, the document is identical to the national Concept, even though the Plan of Actions does not provide for mentioning part-



ners and expected outcomes from the implemented activities, this category is included in the text of the Concept. If we consider the regional Concept from the management approach, we see that the integrative approach is mentioned in the line of developing the single policy of Vinnytsia region e-democracy. The back office will be supported by the creation of a broad coalition for the development of e-democracy in Vinnytsia region with the participation of all interested parties as well as providing of "legal consultants", which, in addition to other functions, will provide citizens with access to e-democracy tools. Moreover, plans to conduct "access points for e-democracy tools" in rural areas, using the capabilities of rural libraries, administrative buildings, etc. also exist.

Another example of establishing local policy in the area of e-democracy is the document developed in the city of Dnipro. With the decision of Dnipro City Council of VII convocation No.51/40 dated 23.01.2019, it was approved the Concept for development of e-democracy of the city of Dnipro for 2019-2020, and the Plan of Actions on its implementation [Dniprovska miska rada 2019]. Thus, the document is also short-term. The Concept starts with outlining the goal, and the timelines to reach it.

From the beginning we can see authors of the Concept insist that the uncertainty and disparity of approaches to policies and tools can lead to substitution of concepts, the creation of barriers in the interaction between residents and authorities and complicate the process of establishing and developing e-democracy on the ground.

This statement demonstrates that management in e-democracy and digital participation must be one of the key factors. Next there are indicated key objectives that include e-governance matters (such as electronic services) and e-democracy. Implementation of the Concept of the city of Dnipro shall be based on the mentioned four principles, such as transparency, e-participation, accountability, and civic education. The Concept sets 11 objectives, and also offers the analysis of e-governance and e-democracy tools that have already been implemented or planned for implementation in the municipality. The Concept concludes with the list of financial, material and technical, and labor resources. The document has an attached two-year Plan of Actions listing 9 activities, their timeline, persons in charge, partners, and expected outcomes.

In terms of structure, the document is based on a different logical framework than the national Concept. However, the Plan of Actions is identical in form to the document approved by the Cabinet of Ministers of Ukraine. It must be emphasized that the document is mostly based on local analysis of available services and tools, but not limited to e-democracy area only. Nonetheless, it would be more logical to distinguish between e-democracy tools and e-governance tools. Moreover, within the Concept for development of e-democracy, the focus shall be on implementation on mechanisms and tools that facilitate participation of citizens in decision-making on all stages, from initiating the issue to de facto implementation of the jointly developed solution.

If we examine this Concept to distinguish the managerial approach used, the creation of system of electronic interaction will be strengthened by the individual responsible for e-democracy development in Dnipro city council. Since one of the problems in the area of e-democracy in Ukraine is in discrepancy between local and regional policies, there is a pressing need to have strategic documents that aim at assisting local self-government to jointly act with citizens to draft the agenda and to develop certain locality or region. It requires specific managerial skills and effective approaches to be used. Therefore, in addition to the document itself, it is important to account for the fact whether the



documents had been drafted jointly with the public. Thus, for example, national Concept for development of e-democracy in Ukraine was recognized as the best practice for engaging citizens into the development of policies as part of the publication "Situation Review: Safety and Security of Cyberspace and E-Democracy in the Eastern Partnership Countries" [Krenjova, Pernik, Reinsalu, Rikk 2017].

Draft version of the document was developed by experts from the Coalition for development of e-democracy in Ukraine, jointly with the State Agency of Ukraine for e-Governance as one of the Coalition members. In parallel, public discussions were taking place in regional centers of Ukraine and online, when the draft document was discussed on the e-zakon platform. All submitted comments were considered and taken into account by Coalition experts. The analysis of local Concept of digital participation of Vinnytsia city amalgamated territorial community showed that the document was preceded by three expert discussions on e-democracy and e-participation in the city, and four focus group discussions with representatives of different target audiences. Thereupon, the draft document underwent online discussions and two public discussions with citizens of Vinnytsia city, when the draft Concept was updated. Regional Concept for development of e-democracy of Vinnytsia region included a number of activities, such as: three focus group surveys, expert discussion, round table, and the meeting of regional coalition. Development of the Concept for e-democracy of the city of Dnipro included focus group discussions with representatives of local self-government, public discussions, online polls, and the presentation of the document.

In fact, the development of these documents in the area of e-democracy and e-participation produces certain opportunities and threats, depending on the chosen approach to development of e-democracy in a certain locality or region.

**Conclusions.** Regardless the managerial approach used, it leads to the development of additional regulatory documents in the area of e-democracy, and to the practices of implementing these tools. Moreover, both approaches need to design single provisions and practices (standards) for the design of these documents, single data sets and data bases, as well as establishing the same degree of competences on different levels of implementing these tools. It is inevitably important to determine how to manage the decision-making process while using the most efficient principle of inclusiveness. It is highly important to start the drafting of strategic changes at least for 3 years. In fact, if activities are implemented without forecasts of technological challenges and opportunities, or trends related to the development of suchlike tools in other countries, it may result into inefficiency of such services from the moment of their implementation.

That is why development of local, regional, and national policies for e-democracy requires a deeper analysis of trends and challenges of the tools themselves, and of the IT environment, and of growth areas of deliberative and participatory democracy in Ukraine, in Europe and globally. Development of regional and local regulatory legal framework depends not only on approaches and solutions but also on availability of the national legal framework for e-democracy. In fact, national legal framework shall be the basis to develop local and regional solutions, since the key element is democracy of decision-making, which will be provided by coordination of policies of different levels for making e-decisions in the area of participation together with the management approach for its sustainable functioning. We believe that establishing an integrative managerial approach and standardization for development of e-democracy on the national, regional, and community scale will result in multiple social and economic effects. In particular, it is about reducing costs for interoper-

erability of tools and integration with state e-resources, including also e-registers, systems, databases, as well as ID systems, etc. Integrated approach will be instrumental in using open data resources and creating of additional products thereon. Moreover, it will result in reducing costs for training, promotion, and shaping of skills for the use of products, systems, and outcomes.

Additional integration between the e-governance services, public services and e-democracy services will lead to higher level of transparency, publicity, and accessibility for end beneficiaries. However, it can be only possible upon availability of coordinated legal framework in the area of e-governance and e-democracy, as well as of unified approaches and standards to design the tools in these areas. Furthermore, the unification of standards and approaches to functioning of e-democracy tools could facilitate integration with international and with some national products of other countries in the areas of e-democracy and participation.

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