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Information and communication technologies legislation for self-government bodies

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Abstract

The research relevance is determined by the fact that in Ukraine, digital and information processes are increasingly popularised in the activities of local self-government bodies, allowing for prompt resolution of certain community tasks. However, the legislation in this area does not fully meet the requirements for the use of information and communication technologies. The study aims to analyse the powers of local self-government bodies to use information and electronic resources in their activities. The main research method used was the systemic and structural one, which helped to determine the specifics of the use of information and communication technologies. The results of the study show that Ukrainian legislation fragmentarily regulates information and communication relations of local self-government bodies. It is proposed to adopt a specialised legislative act. It is determined that local self-government bodies have a fairly significant number of information and communication technologies and e-government tools. It is found that it is expedient for Ukrainian local self-government bodies to adopt the experience of the Republic of Poland in using the crowdsourcing tool, but for its implementation, it is necessary to adopt an appropriate legal act and allocate adequate funding. The

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author emphasises the importance of the opinion of the international European community in the field of information support for the activities of public authorities and local self-government within the framework of bilateral partnership. The author emphasises the need to consider the financial capacity of Ukraine to maintain and develop new information and communication technology tools under the legal regime of martial law. The practical significance of the results obtained is that they encourage the introduction of new information and communication technology tools in the work of local self-government bodies

Keywords: communication; decentralisation; territorial community; municipal law; information; Kyiv City Council; crowdsourcing

Introduction

In the context of the decentralisation reform, local governments are constantly expanding their powers and opportunities for their implementation. It is the decentralisation process that is the stimulating factor aimed at providing territorial communities with more resources and mobilising their internal reserves. With the development of information and communication technologies, the activities of local governments are changing and constantly improving. In particular, the quality of information support for the activities of city, village and settlement councils and territorial communities is significantly improving, and new information technologies are emerging. These changes, in turn, enable local governments to address local issues more effectively.

It should be noted that information and communication technologies and e-governance are currently playing an important role in the life of Ukraine. Information and communication technologies and governance involve the implementation of one of the basic principles of local government, namely transparency. Transparency is a key factor for Ukraine, which is currently implementing a democratic model of interaction between society and the government. Local self-government bodies are obliged to report to the public on the results

of their work and public administration decisions, thus ensuring coordination of two-way communication between the authorities and the community.

In addition, it is worth considering that information is a means (tool) for finding new ideas and phenomena. Currently, the development of information and communication technologies plays an important role in the international arena, and the greater the progress, the more economically and democratically successful the state is. That is why the study of the processes of information and communication technologies and e-government in the activities of local self-government bodies is currently relevant.

The analysis of recent publications confirms the relevance of the chosen topic among modern scholars. The study of I. Aristova *et al.* (2019) on the legal status of local governments of Ukraine as subjects of the information society development is noteworthy. These researchers have also established that the development of the knowledge-based information society leads not only to the clarification of the functions and legal status of these authorities but also to the emergence of a new function – information. The importance of introducing new legal knowledge regarding the legal status of local self-government bodies of

Ukraine into their law-making and law enforcement activities is also emphasised.

It is also worth highlighting the study of O. Diegtiar *et al.* (2022), who concluded that the main indicator of the success of innovative municipal management is the provision of quality, accessible and timely public services to the population and business entities located in the territory. As a result, the category of “innovative municipal governance” is defined as the most complex type of management activity, which emphasises the use of scientific and intellectual resources of management, formed through the introduction and use of an information and communication system for the effective reproduction, distribution and use of available and potential resources to ensure a high standard of living for members of the territorial community, which will allow for the balanced development of the three most important systems: nature, civil society, and the economy.

O. Lialiuk and Ye. Hrynenko (2023) identified factors that influence the level of digitalisation in the local self-government system, including: 1) the need to maintain an adequate level of protection of public information and database information administered by local self-government bodies; 2) concentration of several public services in local self-government bodies; 3) digitalisation of public services available in local self-government bodies; 4) consideration of the peculiarities of the system and structure of local self-government bodies when implementing the electronic document management system.

The study by Ye. Kasyanenko (2018), notes that the use of information and communication technologies provides an opportunity to intensify public control over the activities of local self-government bodies, which is noteworthy. The main forms of such control include platforms for online briefings, online voting, electronic

petitions, online consultations, etc. O. Pronina and O. Semenko (2023) analysed the impact of the legal regime of martial law on the use of information and communication technologies in local government. The researchers argued for the need to find new approaches to improving the efficiency and effectiveness of local authorities through the prism of the best standards and management methods, considering European experience.

Among foreign studies, it is worth highlighting the study by E. Przeybilowicz *et al.* (2018), who characterised the use of information and communication technologies by Brazilian municipalities, discussing the possibility of developing e-government and actions in smart cities. A quantitative cluster analysis study using data from the Munich 2014 survey identified four clusters: “no technology”, “concerned citizen”, “concerned legislation” and “supported ICT”, which suggest different directions for action in the field of information and communication technologies. Each group of municipalities represents different needs in terms of e-governance development and smart city actions, which indicates the need for specific actions for each of the four clusters (Przeybilowicz *et al.*, 2018).

The study aims to conduct a comprehensive analysis of the processes of informatisation and digitalisation in the activities of local self-government bodies. The following tasks need to be addressed: determination of the legal basis for the use of information and communication technologies and e-government by local self-government bodies in their activities, characterisation of the tools of information and communication technologies and e-government that can be used in the activities of local self-government bodies, consideration of the experience of the Republic of Poland in the use of e-government and information and communication technologies in local self-government bodies

Several general scientific research methods were used, including analysis and synthesis methods and the method of abstraction. These methods were used in conjunction with each other, which contributed to the completeness, comprehensiveness and objectivity of the scientific research, validity and consistency of the conclusions drawn, and reliability of the results obtained. At the same time, special legal research methods were key to the study. Using the systemic-structural method, the author studied the current legal and regulatory acts in the field of information and communication technologies and e-government in Ukraine and the Republic of Poland. The comparative method was used to characterise the main instruments used by local self-government bodies in the area of public relations under study. Using the comparative legal method, the author examines foreign experience in the example of the Republic of Poland and identifies the advantages of using certain e-government tools, namely, crowdsourcing and the possibility of its application in Ukraine. Using the systematisation method, the author formulates conclusions and proposals to the current legislation in the area of public relations under study.

Several regulatory acts in the field of information and communication technologies and governance were used in the process of revealing the topic and objectives of the study. Among them are the Constitution of Ukraine (1996, June), Orders of the Cabinet of Ministers of Ukraine “On the Approval of the Information Society Development Strategy in Ukraine” (2013, May) and “On the Work of Central and Local Executive Authorities to Ensure Openness in Their Activities, Public Relations and Interaction with Mass Media” (2004, October), Laws of Ukraine “On Access to Public Information” (2011, January), “On Information” (1992, October), “On Local Self-Government in Ukraine” (1997, May), “On the National

Informatization Program” (2022, December), “On Electronic Trust Services” (2017, October).

Regulatory and legal framework for the use of information and communication technologies and e-governance in the activities of local self-government bodies

The transformational changes in modern Ukraine are driven by global digitalisation, which reflects the causal relationship between the Fourth Industrial Revolution (Industry 4.0) and the development of society (digital society). The scale and pace of digital transformation have become the main characteristics of economic development. Digitalisation is aimed at providing every citizen with equal access to services, information and knowledge based on digital technologies. The introduction of digital technologies has a positive impact on the efficiency, quality, and cost of public and personal activities. Digital technologies open up new opportunities for the social and political inclusion of citizens (Nikolina *et al.*, 2020)

According to the provisions of the main legislative act of Ukraine – the Constitution of Ukraine (1996, June), every citizen is guaranteed the right to participate in the management of public affairs, as well as the right to choose legitimate representatives of the authorities based on democratic procedures, and to receive information on the exercise of their powers by such authorities. Concerning the functioning of the information sphere, the Constitution of Ukraine provides for the prohibition of censorship (Article 15), the right to freedom of speech and thought, the right to free expression of beliefs and opinions (Article 34), information transparency and openness of the functioning of state authorities and local self-government bodies (Articles 3, 32, 57). In general, the information and communication legislation in Ukraine is

quite liberal and includes an extensive range of regulatory legal acts (hereinafter referred to as "RLA") and bylaws – more than 250.

The analysis of the norms of the RLA and national legislation, which regulates various social relations in the context of the development of the information society in Ukraine, was used to determine the place and role of public authorities and local self-government bodies in the implementation of the relevant national policy. For example, according to the Information Society Development Strategy (Order of the Cabinet of Ministers of Ukraine No. 386-r... 2013, May), the public authorities of Ukraine, primarily executive and local self-government, should focus on achieving the main objectives of Strategy 1) improving the quality and accessibility of administrative services to citizens and businesses; 2) developing the e-economy; 3) developing e-governance; 4) simplifying the procedure for ensuring citizens' access to information and knowledge through information and telecommunication technologies.

The by-laws that directly define the specifics of public relations are Order of the Cabinet of Ministers of Ukraine "On the Work of Central and Local Executive Authorities to Ensure Openness in Their Activities, Public Relations and Interaction with Mass Media" (2004, October). It defines the ordering of structural units of the apparatus of local, regional, and central executive authorities, which, according to the distribution of powers at the local level, are responsible for public relations and interaction with the media. This RLA also defines the main measures to increase the effectiveness of political and civic education among the population of Ukraine; the development and publication of several popular science publications on political education and civil society development. A mandatory element of this is the availability of the Electronic Public Reception system.

The adoption of the Law of Ukraine "On Access to Public Information" (2011, January) can be considered a significant step, even a revolutionary step. This law regulated and significantly simplified the procedure for access to open information. A point that is important to mention is the legal provision on the impossibility of restricting information related to the management of budget funds, disposal, use or possession of municipal or state property, as well as uninterrupted access to documentation related to such funds and property.

Law of Ukraine "On Amendments to Some Legislative Acts of Ukraine in Connection with the Adoption of the Law of Ukraine "On Information" and the Law of Ukraine "On Access to Public Information" was adopted in 2014. According to Art. 1 of the Law of Ukraine "On Information" (1992, October), a special subject of power defines a local authority and a state authority that will carry out management functions on access to information as defined by the legislation of Ukraine. Therefore, this Law defined the status of local self-government as a subject of information relations.

The RLA that defines the need for the transition of management of cities and other administrative units to an online system is the Law of Ukraine "On the National Informatization Program" (2022, December). The informatisation law regulates the procedure for information support of environmental, national-cultural, socio-cultural, defence, scientific and technical activities in areas of national importance, in particular, it defines the procedure for meeting information needs and solving problems.

The Law of Ukraine "On Electronic Trust Services" (2017, October) is also noteworthy within the scope of the study. This Law describes the basic organisational and legal framework for the provision of electronic services, including cross-border services, and regulates in detail the

obligations and rights of entities providing such services, the basic principles of electronic identification, as well as measures for state control and supervision over compliance with the legislation relating to the provision of such services.

The Law of Ukraine “On Local Self-Government in Ukraine” (1997, May) stipulates a range of powers in the field of information and communication. The main ones include the right to receive unhindered information from organisations, enterprises and institutions of all forms of ownership on issues that may directly or indirectly fall within the competence of local self-government bodies (Article 26(1)(8)); to hear the necessary information from the prosecutor’s office and the National Police on the state of lawfulness in the territory of the respective community (Article 18(2)); to establish and use electronic media of the respective local council (Article 43(1)(7)).

Given the above information, it should be noted that Ukrainian legislation lacks a systematic approach to the regulation of information and communication relations in municipal authorities within the framework of the Law of Ukraine “On Local Self-Government in Ukraine” (1997, May). The lack of a comprehensive information and communication policy of such bodies; omission of the main stages of information provision and vesting with relevant powers (competence); termination of the activities of such bodies, etc. In particular, it is necessary to note the fragmentary regulation of this area of competence of local self-government bodies, which also lacks competence and a systematic description of the powers in the information sphere of public administration bodies. This is primarily because the information interests and needs of local self-government bodies, as well as the organisational and legal means for their implementation, are not properly defined. Therefore, it is necessary to make appropriate changes to the legislation.

According to H. Blinova (2019), it is necessary to adopt the Law of Ukraine “On Information Support of Public Administration Bodies”. According to the scientist, this law should outline the main powers and information needs of public administration bodies, which may include local self-government bodies; define the organisational, legal, information and technical means for exercising the powers of such bodies, including liability for offences in the field of research. The opinion of the researcher should be accepted, but it would be more appropriate to define the title of the Law as the Law of Ukraine “On Information Support of Public Authorities and Local Self-Government Bodies” to cover all subjects of information relations without exception.

Tools of information and telecommunication technologies and e-governance in the activities of local self-government bodies

Local governments are an important component of the functioning and development of any country, but their impact on ensuring the rights, freedoms and legitimate interests of citizens and addressing their pressing issues needs to be improved. A positive aspect of decentralisation is the shift of several administrative powers from central authorities to local communities. The time required for such implementation should be considered. Conversely, if the central government has maximum power and imperative powers, and local governments have a rather narrow scope of real powers, the development trends of such a state will be mostly negative (Fedorenko *et al.*, 2021).

Information and communication support of local self-government bodies should also be understood not only as separate activities but also as a complex factor in improving the efficiency of their management and service activities in the

following areas: effective interaction of the authorities with citizens and enterprises; efficiency of the internal work of each agency; efficiency of coordinated interaction between state authorities and local self-government bodies (Nepomnyashchyy *et al.*, 2020). In the process of establishing e-government in local authorities, an electronic document management system is a necessary component. After all, such a system is a key element in the interaction of citizens with public authorities and local self-government bodies. Electronic document management is an important technical tool of the e-government system, which can be used to systematise the necessary information and carry out any necessary analysis.

The development of e-governance in Ukraine allows for an appropriate level of protection of the rights of Ukrainian citizens and constant access to government information. It also helps engage citizens in indirect democracy and improves the quality of management decisions. Therefore, to ensure transparent and open public administration in local authorities, it is necessary to continue working towards the expansion of e-governance. As a result of the introduction of e-governance tools, Ukraine can move closer to European standards in the field of local self-government (Havrylenko, 2021). It is worth noting that in the context of the constant processing of diverse information, cooperation in the preparation and publication of documents, and provision and creation of electronic services provided by local self-government bodies, there is an objective need for comprehensive automation of documentary processes. In this case, scientists describe an “ideal automated system” that allows local governments to use various messengers for data exchange, and use electronic platforms for various meetings, conferences, or conferences. In addition, it is important to remember the legislatively

established possibility of using an electronic digital signature in the process of holding plenary sessions and meetings of standing committees in local self-government bodies. In recent years, the capital has also been using a tool for public participation in the allocation of budget funds – participatory budgeting. The participatory budget allows various organisations, self-organisation bodies, or ordinary Kyiv residents to receive funds for their projects if they receive the appropriate number of votes. Another tool that is also popular is the use of e-petitions, which allows one to raise a controversial issue or problem to solve it (Bilousko & Yakovlieva, 2016).

In terms of document management, for example, the Kyiv City Council and its structural units use an automated electronic document management system – ASKOD (ASKOD docflow system, n.d.). This system can support several functions, including an automated system of official document flow and record keeping; an automated system for processing citizens' appeals; the ability to process various internal, incoming, and outgoing, regulatory, and organisational documents; an automated system for providing administrative services; and an automated system for processing requests for public information (Sytnyk & Melnychenko, 2015). This system also allows for the exchange of data and documents in connection with the systems of other central executive authorities. ASKOD also includes an automated workstation for managers (hereinafter referred to as the manager's workstation), which allows managers of enterprises, institutions, and organisations to sign any documents using their electronic digital signature, including monitoring the implementation of their decisions. It is also worth noting that the manager's workstation can be used both on personal computers and on mobile phones, tablets, etc. (ASKOD docflow system, n.d.).

In recent years, Ukraine has faced such challenges as COVID-19 and full-scale invasion, which has also affected the activities of the Kyiv City Council as a local government body. The IX convocation of the Kyiv City Council has held its plenary sessions and meetings of standing committees several times over the past three years in the form of online meetings. The meetings are held according to special procedures provided for by the Rules of Procedure of the Kyiv City Council, namely, with the technical impossibility of voting online using an electronic digital signature. It should also be noted that the Kyiv City State Administration, as an executive body of the Kyiv City Council, also actively uses electronic document management systems. In general, it should be noted that as of 2023, local governments in Ukraine use a fairly significant number of information and communication technology and e-government tools, which allows them to solve tasks, respond to problems and difficulties, and provide quality administrative services quickly and efficiently.

The experience of the Republic of Poland in the application of e-governance and information and communication technologies in local self-government bodies

The development of the information society and democratisation provide many opportunities to use new information and communication technologies in government to improve the efficiency of public administration. The criteria for the quality of administrative services provided to the public by state and local authorities are their transparency, legality, accessibility, and maximum time savings. The Republic of Poland is often cited as a model for Ukraine in terms of reforms.

Information society issues have appeared in every official government programme since

1997. Citizens' needs (e.g. free and fast access to the Internet) and fears (increased government control) related to e-government are becoming important issues of interest to policymakers. In 2000, the Polish government developed the first action plan to support the development of the information society in Poland for 2001-2006. One of the goals set out in the plan was to create transparent and citizen-friendly public administration structures based on open information society standards, with the help of information and communication technology tools. Local authorities were to play an important role in the strategy (Dobrzyniecki, 2018).

Since 2011, the Ministry of Administration and Digitalisation (Ministerstwo Administracji i Cyfryzacji, MAC) has been responsible for the implementation of e-government in the Republic of Poland. The special Operational Programme Digital Poland (Programme Operacyjny Polska Cyfrowa, POPC) (n.d.) was designed for 2014-2020 and funded by the European Union. This plan had three vectors that most closely correspond to important areas of digitalisation: high-speed Internet access, provision of electronic services to the population, and improvement of citizens' competence in digital skills. The Digital Operational Programme was presented by the Ministry of Governance and Digitalisation and the Ministry of Regional Development of Poland. The main focus of the programme was the use of digital potential to improve the living standards of citizens, introduce information and communication technologies, and increase the efficiency of e-services through constant interaction with citizens, NGOs, governments, and investors. Following the Polska Cyfrowa project, regional operational programmes are also being implemented (Marchuk, 2021). The development of e-governance and the use of information and communication technologies

in the Republic of Poland is at a fairly high level, which allows most administrative services to be performed online: electronic tax calculation; electronic customs records; electronic business registration; electronic elections; electronic courts; electronic procurement; vehicle registration and road safety; emergency warning system; electronic patient information services, etc. All these e-services are provided to citizens on different government websites that interact with each other as they are united by the ePUAP platform (What is ePUAP?, n.d.).

According to the current legislation of the Republic of Poland, the role of information and communication technologies in local self-government is very important. Thus, information and communication technologies in such bodies perform four main tasks: 1) help improve the internal functioning of government agencies (one of the oldest and least complex forms of IT system support); 2) promote the implementation of e-government functions at the local level to enable citizens and entrepreneurs to solve necessary tasks via the Internet; 3) contribute to increasing the level of transparency of public authorities; 4) provide the political authorities with the necessary information for effective and efficient state governance.

These tasks are significantly related to the effective and efficient interoperability of information and communication technology systems throughout public administration (Electronic Document Management in the Republic of Poland, n.d.). It is also worth noting that the implementation of the Smart City approach is becoming increasingly popular in the Republic of Poland. This approach fully reflects the democracy of the state with the involvement of a large number of citizens. In particular, citizens have the opportunity to control and monitor at any time the following: electronic auctions, electronic analysis of the

economic market, electronic auction maps, and the status of online processing of citizens' appeals. Electronic surveys provide an opportunity to process citizens' opinions and take them into account when making important decisions. An important element of the Smart City is the introduction of a crowdsourcing mechanism (Shoturma, 2016).

Crowdsourcing is a technology of online interaction between public authorities, including local ones, and consumers of administrative (government) services, namely the population, businesses, and individual groups, to provide the latter with opportunities and powers to participate in processes related to public administration decisions. Crowdsourcing is often confused with outsourcing, as both categories involve human resources. However, they have a significant difference when applied in practice. Outsourcing always involves the conclusion of a formal contract, where the parties are predetermined. Crowdsourcing is concluded based on a public offer (proposal). Crowdsourcing also improves the quality of feedback. People who agree to the specified conditions for cooperation will be more balanced in their attitude toward the functions because there will always be a flexible system of material and non-material incentives (Kravchenko, 2015).

Information and communication technologies play an important role in the development and economic growth of a local government unit. Information and communication technologies in local government can accelerate the development process. The main recommendations may include, firstly, adequate training of local government officials and employees in the use of ICT tools to increase their knowledge and skills in the use of ICT services. Secondly, to increase the budget for the transformation of traditional service delivery mechanisms into e-government. Thirdly, to raise public awareness of the introduction, use and

access to information and communication technologies in local governments (Dhital, 2015).

Thus, the following advantages of e-governance and information and communication technologies in the Republic of Poland can be identified: improved quality of administrative services; openness and transparency of administrations; the possibility of stable receipt of administrative services; saving time for information processing; ensuring unimpeded access to public information. Ukraine should consider introducing the practice of crowdsourcing by developing a regulatory framework for its implementation and providing appropriate funding.

Conclusions

Although Ukraine is under the legal regime of martial law, the level of digitalisation and electronic support of public authorities is growing. The study shows that information and communication technologies and e-governance are the main drivers of local government performance. In the context of ongoing decentralisation, local governments are acquiring more and more powers and tasks that require a quick and efficient response. Such a response can be provided by a range of information and communication technologies. The main tools of information and communication technologies and e-governance of local self-government bodies are electronic document management using appropriate automated systems; electronic administrative services provided online; public e-budget and electronic petitions of citizens; electronic digital signature, etc.

Ukrainian legislation lacks a systematic approach to regulating information and

communication relations of local self-government bodies. Therefore, to regulate relations in this area, it is necessary to adopt the Law of Ukraine "On Information Support of State Authorities and Local Self-Government Bodies", which would cover all subjects of information relations without exception. To develop such a legislative act, it is advisable to involve experts in the field of information support from foreign countries. Ukraine has a fairly large number of international partners and bilateral partnership agreements, both with states in general and with individual institutions in particular. Such cooperation with international bodies usually increases the level of Europeanisation and European integration of Ukraine, as since 2022 it has acquired the official status of a candidate for membership in the European Union.

Considering the experience of the Republic of Poland, Ukraine needs to adopt appropriate regulatory legislation in the field of crowdsourcing and ensure its sufficient funding, which will allow even more citizens to be involved in solving problems on the ground. However, it is also worth noting that a significant percentage of budget funding in Ukraine is spent on defence and the Armed Forces of Ukraine. In this regard, a future study could analyse Ukraine's financial capacity to provide new information and communication technology tools under martial law.

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Conflict of Interest

None.

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Законодавчі засади застосування інформаційно-комунікаційних технологій у діяльності органів місцевого самоврядування

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Анотація

Актуальність обраної тематики полягає в тому, що в Україні зростає популяризація електронних та інформаційних процесів в діяльності органів місцевого самоврядування, що дає змогу оперативно вирішувати певні завдання громади. Однак законодавство в цій сфері не повною мірою відповідає вимогам щодо застосування інформаційно-комунікаційних технологій. Мета дослідження – проаналізувати наявні в органів місцевого самоврядування повноваження застосовувати інформаційні та електронні ресурси у своїй діяльності. Основним методом дослідження став системно-структурний, за допомогою якого визначено специфіку застосування інформаційно-комунікаційних технологій. Результатами дослідження встановлено, що українське законодавство фрагментарно регулює інформаційні та комунікаційні відносини органів місцевого самоврядування. Запропоновано ухвалити профільний законодавчий акт. Визначено, що органи місцевого самоврядування володіють досить значною кількістю інформаційно-комунікаційних технологій та інструментів електронного урядування. З'ясовано, що українським органам місцевого самоврядування доцільно перейняти досвід Республіки Польща в застосуванні інструменту краудсорсингу, проте для його реалізації необхідно ухвалити відповідний нормативно-правовий акт та виділити належне фінансування. Підкреслено важливість думки міжнародної європейської спільноти в галузі інформаційного забезпечення діяльності органів державної влади та місцевого самоврядування в рамках двостороннього партнерства. Наголошено на необхідності враховувати фінансову спроможність України підтримувати та розвивати нові інструменти інформаційно-комунікаційних технологій в умовах правового режиму воєнного стану. Практичне значення отриманих результатів полягає в тому, що вони спонукають до запровадження нових інструментів інформаційно-комунікаційних технологій у роботі органів місцевого самоврядування

Ключові слова: комунікація; децентралізація; територіальна громада; муніципальне право; інформація; Київська міська рада; краудсорсинг
