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## MAIN DIRECTIONS OF DIGITAL TRANSFORMATION OF THE LEGAL MECHANISM FOR THE IMPLEMENTATION OF CONSTITUTIONAL LAND RIGHTS

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### Summary

The purpose of this article is to examine the current state and prospects for the development of the legal mechanism for the implementation of constitutional rights to land plots using digital technologies.

When examining the legal mechanisms for exercising land rights, in particular the digitization of administrative procedures in the field of land relations, the article concludes that the digital transformation of land relations contributes to the depersonalization of the processes of exercising land rights and improves the efficiency of land assessment.

The issue of legal support for the digitization of natural resources and environmental protection is becoming a subject of particular scientific interest and research. However, the current situation in Ukraine requires additional in-depth scientific research into the prospects for legal regulation of the use of digital technologies in the implementation of constitutional land rights.

Scientific approaches to distinguishing between the concepts of “digital transformation” and “digitalization” are revealed. It is argued that the starting points for digital transformation are constitutional norms that guarantee the right to land ownership and its inviolability, the right to use land, the right to access information about the state of land as an element of the environment and to public information, the right to protect information, and the right to judicial protection.

The study conducted on the consequences of land contamination in Ukraine as a result of armed aggression by the Russian Federation highlights the need for a legally defined mechanism for exercising property rights to land plots that have been contaminated by mines.

In summary, the main areas of digital transformation of land relations should include: improving and further filling the State Land Cadastre with reliable information; developing the national geospatial data infrastructure and updating the cartographic base; further simplification and automation of state registration of land plots and property rights to them, creation of conditions for the effective functioning of the land market; completion of the inventory of state-owned land and implementation of new software for interaction between the State Land Cadastre systems and other registries; digitization of services, automation of processes, and ensuring transparency of land relations.

**Keywords:** digitalization, land relations, land ownership rights, state land cadastre, land monitoring, land management.

## 1. Introduction

Digital transformation is identified as a key factor in Ukraine's pursuit of a green, digital, and inclusive economy in the Plan for Ukraine Facility 2024-2027, approved by the EU Council on May 14, 2024. Sustainable development, economic growth, and equal access to digital opportunities are expected to accelerate through the integration of digital solutions in various sectors, in line with EU standards.

The systematic introduction of digital technologies into various spheres of public life in Ukraine has led to the designation of digital transformation as a priority of Ukraine's national policy, including in the field of land use and protection. The necessary measures include the development of updated scientific and methodological approaches to land use and protection, land monitoring, and improvement of the regulatory framework, as outlined in the Concept of the National Target Program for Land Use and Protection, approved by the Cabinet of Ministers of Ukraine Order № 70-r of January 19, 2022. These measures must be planned taking into account the current dynamics of socio-economic and environmental conditions in the country, in particular the accelerated development of digital technologies. The digitalization of land relations in Ukraine directly affects the content of the mechanism for the implementation of land rights.

The significant potential of digitization of land relations is emphasized in scientific literature. Through the development and implementation of modern information systems such as geographic information systems, integrated databases, and remote sensing systems, it is now possible to track land use, identify violations of land legislation, plan land use, and facilitate access to information. They contribute to the efficient administration of land resources at the national level by improving data for decision-making, significantly increasing transparency and control over land use. Digital land registries, which are maintained using blockchain technologies, ensure reliable and immutable storage of information on land relations, reducing the possibility of abuse and corruption. (Naumchuk, 2024, p. 121)

An analysis of constitutional provisions allows us to conclude that although the Constitution of Ukraine does not explicitly mention the digitization of land relations, as well as any other relations, its principles and foundations create a legal basis for the introduction of electronic tools that ensure transparency, efficiency, and protection of land rights.

The purpose of this article is to examine the current state and prospects for the development of a legal mechanism for the implementation of constitutional rights to land plots using digital technologies.

The issue of legal support for the digitization of the use and protection of natural resources is receiving increasing attention in scientific literature. It has been developed in the works of O. Vinnik, M. Dolynska,

O. Kalugin, M. Kinakh, P. Kulinich, N. Malysheva, K. Markevich, S. Romanko, M. Rudenko, A. Strizhkova, and others. However, the current situation in Ukraine, with the war and the resulting restrictions on land and other natural resources, as well as changes in the legal system, calls for more in-depth research into the prospects for legal regulation of the use of digital technologies in the implementation of constitutional land rights.

## 2. General principles of legal regulation of digital transformation of land relations

The state recognizes the important role of digital transformation for sustainable development, economic growth, and the protection of subjective rights. This necessitates an active search for ways to develop its regulatory framework. The main goal of digitalization is to achieve the digital transformation of existing industries and create new ones, as well as to transform areas of life into new, more efficient, and modern ones, including the land sector. (Concept for the Development of the Digital Economy and Society of Ukraine for 2018-2020, 2018)

To study the mechanism for implementing constitutional land rights, it is appropriate to refer to the distinction between the concepts of «digital transformation» and «digitization». These concepts are often defined through each other. As O. Vinnik notes, «digitization» should be understood as the use of digital technologies and digitized data in activities, which is a process that goes beyond the implementation of technologies and involves more profound changes in the entire business model and the evolution of work, while «digital transformation» involves a much broader use of digital technologies, the implementation of appropriate organizational measures and related cultural changes, and therefore concerns more people than technologies. (Vinnyk, 2021, p. 259).

O. Miroshnychenko's conclusion regarding the definition of the goal of digital infrastructure development as ensuring that all citizens of Ukraine have the opportunity to use digital opportunities without restrictions and difficulties of a technical, organizational, and financial nature, regardless of their location and without being in the «digital divide» segment, is reasonable. (Miroshnychenko, 2023, p.214)

Noting the absence in Ukraine of a separate regulatory act that would contain provisions comprehensively regulating relations concerning the digital transformation of land rights, it should be noted that, to a certain extent, this gap is compensated for, albeit not always effectively, by a significant body of regulatory acts, which can be divided into several groups.

The first group includes acts aimed at regulating modern information relations and informatization of key areas of public life (the Laws of Ukraine «On

Information», «On Access to Public Information», «On the National Informatization Program», «On Electronic Documents and Electronic Document Management», «On Telecommunications», etc.). The second group includes acts relating to various aspects of the functioning of the information society (the Laws of Ukraine «On the Licensing System in the Sphere of Economic Activity», «On Public Electronic Registers», «On State Registration of Real Rights to Immovable Property and Their Encumbrances», «On Electronic Identification and Electronic Trust Services», etc.). The third group includes regulatory and legal acts of land legislation that are not directly devoted to the digital transformation of land rights, but some of their provisions regulate certain aspects of digital transformation. These include the Land Code of Ukraine, the Laws of Ukraine «On Environmental Protection», «On the State Land Cadastre», «On the National Geospatial Data Infrastructure», «On Environmental Impact Assessment», resolutions of the Cabinet of Ministers of Ukraine «Procedure for Monitoring Land and Soil», «On Public Monitoring of Land Relations», «Procedure for Maintaining, Administering, and Using Information from the Register of Territories Contaminated/Potentially Contaminated with Explosive Objects», etc.

### **3. Constitutional foundations of digital transformation of land rights**

A. Yezorov's opinion on the phenomenon of the Constitution is reasonable, which mainly consists in the fact that it constitutes a system of basic values designed to limit any manifestations of arbitrariness of public authorities in order to guarantee human rights (Yezorov, 2021). Despite the absence of any mention in the Constitution of the digitization of land relations, as well as any other relations, it can be convincingly argued that the starting conditions for digital transformation are constitutional norms that guarantee the right to land ownership and its inviolability, the right to use land, the right to access information about the state of land as an element of the environment and to public information, the right to protect information, and the right to judicial protection. Its principles and foundations create the legal basis for the introduction of electronic tools that ensure transparency, efficiency, and protection of land rights.

Provisions guaranteeing land ownership rights, according to which such rights are recognized as inviolable, are enshrined in Articles 13, 14, and 41 of the Constitution of Ukraine. Digital transformation is aimed at strengthening these guarantees. Electronic registries ensure the reliability and accuracy of information, making manipulation and illegal alienation impossible. This increases trust in the land system and the effectiveness of protecting the rights of owners.

Ownership of land is acquired and exercised exclusively in accordance with the law, as stated in Article 14 of the Constitution of Ukraine. One of the

legally established methods is the acquisition of rights to land plots through auction. Land auctions have become an effective mechanism for the digital transformation of land rights. They are conducted in the form of real-time electronic auctions on the Internet. This makes the process of acquiring land rights more accessible, efficient, and transparent. All participants have equal access to them.

Fundamental to ensuring data openness, which is one of the main goals of digital transformation, is Article 50 of the Constitution of Ukraine, which guarantees everyone the right to free access to information about the state of the environment. Digital transformation enables citizens to obtain complete, reliable, and up-to-date information about land plots, their owners, intended use, and restrictions through the State Land Cadastre and other open electronic registries. In order to provide administrative and other public services in the field of ecology, a nationwide automated environmental information and analytical system for decision-making and access to environmental information, as well as its network, EcoSystem, have been created and are functioning successfully and are constantly being improved.

At the same time, the Constitution of Ukraine has established safeguards against the use and dissemination of confidential information about individuals without their consent, except in cases specified by law and only in the interests of national security, economic well-being, and human rights. The constitutional provision (Art. 32) on the protection of personal data obliges the state to create digital systems with a high level of cybersecurity and restricted access to confidential information about land owners.

Mechanisms that should guarantee environmental safety and create real conditions for the implementation of the state's commitments in this area are also regulated by the Constitution of Ukraine (Art. 16). These provisions include the right to freedom of association in public organizations to exercise and protect one's rights and freedoms and to satisfy, among other things, environmental interests (Art. 36) and to participate in the management of public affairs (Art. 38). An important guarantee of these rights and a form of their implementation is the development of digital platforms for public engagement. They provide access to up-to-date information and participation in discussions on land use plans, which enhances the transparency and openness of land relations, in particular through citizen participation in environmental impact assessments and strategic environmental assessments through the Unified Register of Strategic Environmental Assessments and the Unified Register of Environmental Impact Assessments.

The right to an environment that is safe for life and health and to compensation for damage caused by violation of this right is enshrined in Article 50

of the Constitution of Ukraine. During the full-scale russian invasion, a service was introduced to record damage to the environment caused by emergencies, events, and armed aggression by the russian federation (hereinafter referred to as the RF) called «Eco-Threat», as a functional module of «Eco-System». Its purpose is to record facts of environmental damage to the natural environment for rapid response, forecasting, management decision-making, reporting, and planning regarding recorded facts of damage to the natural environment. It is designed to enable citizens to exercise their rights to free access to up-to-date information on recorded facts of damage to the natural environment as a result of emergencies, events, and armed aggression by the Russian Federation. EcoThreat also. It provides for the submission of electronic appeals regarding identified cases of damage to the environment as a result of emergencies, events, and armed aggression by the russian federation.

An analysis of these provisions gives grounds to assert that the provisions of the Constitution are the direct legal basis for the creation and functioning of digital systems in the field of land rights.

#### **4. Problems of exercising land ownership rights in areas contaminated by mines**

As a result of Russia's armed aggression, a significant part of Ukraine's land fund is contaminated with explosive objects. In the National Mine Action Strategy for the period up to 2033 (National Mine Action Strategy for the period until 2033, 2024), states that, as a result of Russia's armed aggression, Ukraine has become one of the most contaminated countries in the world in terms of explosive ordnance. This creates legal and environmental risks for their further use and has led to significant restrictions on the exercise of property rights to land plots. The issue of land ownership rights is of critical importance in the context of mine contamination, where restrictions on access to land plots can last for decades, significantly affecting the socio-economic stability of the region. Any decision to survey or clear areas of explosive objects is directly related to the issue of land ownership, as interference in the processes of access, use, or disposal of land plots requires legal justification and a balance between property rights guarantees and the need to eliminate threats to public safety. (Ilkiv, Aftanasiv, 2025, p.23)

Within the framework of mine action, the principle of the inadmissibility of harm to individuals and society, enshrined in Part 3 of Art. 13 of the Constitution of Ukraine, acquires legal significance. It determines the need for active intervention by the relevant authorities in the mechanism for reducing the risks associated with mine contamination of territories.

The legal basis for the reclamation of land plots affected by man-made pollution, including explosive damage to soils, is defined by the Land Code of Ukraine. T.G.

Popovich correctly notes that, given the imperative nature of land legislation, the activities of entities responsible for demining cannot remain within the bounds of absolute neutrality, since their operational decisions directly affect the level of public safety and the environmental condition of mine-contaminated areas. In this context, interference with land ownership rights within the framework of mine action measures acquires doctrinal justification and should be defined as a component of the mechanism for implementing constitutional security guarantees (Popovych, 2024, p. 111).

The Law of Ukraine «On Mine Action in Ukraine» (On mine action in Ukraine, 2018) which regulates the organizational and legal basis for humanitarian demining, establishes the competence of state authorities in this area and provides state guarantees for the protection of the rights of persons whose land plots have been affected by hostilities. However, this regulation is incomplete. Given the need to ensure legal certainty and restore land relations in the post-war period, it is crucial to develop a clear mechanism for the implementation of property rights to land plots that have been mined.

Experts rightly emphasize the incompleteness of existing regulatory and legal acts and the importance of developing new legal mechanisms that will ensure the procedure for transferring contaminated land to state ownership for its long-term restoration with appropriate compensation to landowners for the period during which the contaminated land remains in state ownership; mechanisms for regulating land relations regarding compensation to owners or tenants of land plots due to restrictions on their use; the procedure for providing investments and loans to landowners and measures for land restoration (reclamation, conservation); mechanisms for guaranteeing the rights of landowners if their land is expropriated or temporarily mothballed; mechanisms for ensuring the financing of a complete independent ecological and geochemical assessment of soils, to be initiated by the Ukrainian government. (Balandina, 2023)

Thus, the absence of a legally defined mechanism for exercising property rights to land plots that have been mined complicates law enforcement practice and creates obstacles to the effective protection of land rights.

#### **5. Digital transformation of guarantees for the implementation of constitutional land rights**

National legislation enshrines a wide range of land rights guarantees. However, as experts rightly point out, their implementation has become difficult since the start of military aggression, accompanied by military environmental crimes. This has a negative impact on environmental and economic security, exacerbating existing threats and creating new challenges. (Yarmol, Baik, Bernaziuk, Stetsyuk, Ilkiv, 2024, p. 106)



The implementation of constitutional land rights is intended to promote the legislative consolidation of the principles of digitization of certain functions that are part of the legal mechanism. Since the priority direction of land reform is to create a system of land rights while ensuring a balance between administrative and market regulation of land relations, this primarily necessitated the digital identification of the legal characteristics of land and rights to it, as well as the creation of conditions for universal access to information about the state of land. A major achievement for Ukraine was the creation and filling of the State Land Cadastre.

A sophisticated mechanism for monitoring land and soil is designed to facilitate the timely detection of changes in land condition, pollution, and soil properties, as well as the assessment of measures taken to protect land, preserve and restore soil fertility, prevent the impact of negative processes, and eliminate the consequences of such impact. The concept of the State Targeted Environmental Monitoring Program was approved by Order of the Cabinet of Ministers of Ukraine No. 610-r of July 7, 2023. It defines the main objective of the program as the development of a comprehensive environmental monitoring system, improving its effectiveness in order to maintain ecological balance in Ukraine and ensuring the constitutional right of individuals to a safe environment.

As P.F. Kulinich rightly points out, the digitization of land relations significantly changes the scope of land law, determining its further development through the creation of new social needs for the use of land resources, which generate new land interests among its members. (Kulynych, 2022, p.411) Given the introduction of various forms of land ownership and, accordingly, the rights derived from it, which led to an expansion of the circle of land rights holders, an important area of digitalization was the introduction of state registration of property rights in the State Register of Property Rights to Real Estate and Encumbrances Thereon.

The digitization of administrative procedures in the field of land relations should be considered one of the effective tools of the legal mechanism for the implementation of land rights. This is ensured by the provisions of the Law of Ukraine «On Administrative Procedure» (On administrative procedure, 2023). In particular, Part 2, Section 3 of Article 62 of this law imposes on the administrative body the obligation to take measures to consider cases in automatic mode, i.e., using software tools, without human intervention, and responsibility for administrative acts adopted in this mode. This supports the thesis that the digitization of land relations has a positive impact on reducing the dependence of the realization of land rights on personal (subjective) factors, as well as on improving the efficiency of land assessment.

The study concludes that the digital transformation of the legal mechanism for the implementation of

constitutional land rights is a complex process aimed at improving the efficiency of land management, transparency, and accessibility of information for all interested parties. It introduces digital technologies, uses various digital tools, artificial intelligence to monitor and collect data on land plots, perform analysis and forecasting to process large amounts of information, create electronic systems for effective management and monitoring of land and soil, and use electronic tools to interact and exchange information about environmental objects.

The main areas of digital transformation of land relations include: improving and further filling the State Land Cadastre with reliable information; developing the national geospatial data infrastructure and updating the cartographic base; further simplifying and automating the state registration of land plots and property rights to them, creating conditions for the effective functioning of the land market; completion of the inventory of state-owned land and introduction of new software for interaction between the State Land Cadastre systems and other registries; digitization of services, automation of processes, and ensuring transparency of land relations.

## 6. Conclusions

The goal of the digital transformation of the legal mechanism for the implementation of constitutional land rights should be to create equal conditions of access to the land market for all land users, to increase the productivity of land use through its rational and sustainable use, to establish transparent, clear, and, most importantly, effective land management by increasing transparency in land use and access to information, to improve the existing information support system and control over the state of land resources, and to widely introduce new information technologies. Legal regulation of this process is extremely important, as it defines the limits and possibilities of using digital technologies in land relations.

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## ОСНОВНІ НАПРЯМИ ЦИФРОВОЇ ТРАНСФОРМАЦІЇ ПРАВОВОГО МЕХАНІЗМУ РЕАЛІЗАЦІЇ КОНСТИТУЦІЙНИХ ЗЕМЕЛЬНИХ ПРАВ

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### Анотація

Метою статті є дослідження сучасного стану та перспектив розвитку правового механізму реалізації конституційних прав на земельні ділянки із застосуванням цифрових технологій. Закріплення на конституційному рівні вихідних засад правового регулювання земельних відносин виступає гарантією реалізації конституційних земельних прав та спонукає до активного пошуку дієвих засобів їх забезпечення.

Досліджуючи інструменти правового механізму реалізації земельних прав, зокрема цифровізацію адміністративної процедури у сфері земельних відносин, у статті висновується, що цифрова трансформація земельних відносин сприяє деперсоналізації процесів реалізації земельних прав та покращує ефективність оцінки стану земель.

Проблематика правового забезпечення цифровізації природоресурсної та природоохоронної сфери стає об'єктом особливого наукового інтересу та наукових розвідок. Проте сучасні українські реалії, пов'язані з воєнними діями, та як наслідок обмеженням земельних та інших природних ресурсів, змінами у правовій системі, вимагають додаткового ґрунтового наукового дослідження перспективи правового регулювання застосування цифрових технологій у реалізації конституційних земельних прав.

Розкриваються наукові підходи до розмежування змісту понять «цифрова трансформація» та «цифровізація». Стверджується, що вихідними умовами для цифрової трансформації є конституційні норми, які гарантують право власності на землю та його непорушність, право користування землями, право на доступ до інформації про стан земель як елементу довкілля та на публічну інформацію, право на захист інформації, право на судовий захист. Аналіз цих положень дає підстави стверджувати, що норми Конституції є безпосередньою правовою основою, що актуалізує створення та функціонування цифрових систем у сфері

земельних прав. Принципи та засади Конституції України створюють правову основу для впровадження електронних інструментів, що забезпечують прозорість, ефективність та захист земельних прав.

Проведене дослідження наслідків мінного забруднення земельного фонду України внаслідок збройної агресії російської федерації, актуалізує необхідність законодавчо визначеного механізму реалізації прав власності на земельні ділянки, що зазнали мінування, оскільки його відсутність ускладнює правозастосовну практику та створює перешкоди для ефективного захисту земельних прав.

Підсумовано, що до основних напрямів цифрової трансформації земельних відносин слід віднести: вдосконалення та подальше наповнення Державного земельного кадастру достовірною інформацією; розвиток національної інфраструктури геопросторових даних та оновлення картографічної основи; подальше спрощення та автоматизація державної реєстрації земельних ділянок та речових прав на них, створення умов для ефективного функціонування ринку земель; завершення інвентаризації земель державної власності та впровадження нового програмного забезпечення для взаємодії між системами Державного земельного кадастру та з іншими реєстрами; цифровізація послуг, автоматизація процесів та забезпечення прозорості земельних відносин.

**Ключові слова:** цифровізація, земельні відносини, право власності на земельну ділянку, державний земельний кадастр, моніторинг земель, управління землями.