BRIDGING THE DIGITAL DIVIDE: A LEGAL ANALYSIS OF E-DEMOCRACY IN LITHUANIA

Karolis Kubilevičius[1]

SUMMARY

The gap in digital access is steadily increasing. The existing digital divide, observed both in the Republic of Lithuania[2] and across the European Union[3], underscores the lengthy and intricate nature of integrating new technologies into society. While different sectors face different issues, in relation to introducing technologies into conventional processes, one main issue can be seen throughout the sectors. That is, the growing gap between emerging technologies and the applicable law[4]. Lack of regulations in relation to technologies, used in political processes, such as electronic petitions, electronic voting, etc., creates a situation, where the basic citizens' rights are not guaranteed. What is more, citizens are not able to utilize these technologies for their intended purpose. Finally, the technologies themselves become inaccessible to those groups of citizens, which would benefit the most from the use of these technologies. If the citizens are precluded from utilising these technologies to exercise their rights to participate in political processes due to insufficient knowledge, lack of accessibility, it can be regarded as an infringement of their rights. What is more, an analogous situation is created, when the very same citizen do end up using these technologies, but there is no rule of law requiring the operators of these technologies to make them safe to use.

*Despite the present safety concerns, electronic democracy (hereinafter – or **E-democracy**) initiatives have already been introduced to the general public[5]. These technologies allow citizens to exercise their rights, such as the right to petition. With the growing threat to democratic*

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[2] Andrius Suminas, Arūnas Gudinavičius and Arnas Aleksandravičius, "Skaitmeninės atskirties požymiai ir lygmenys: Lietuvos atvejo analizė", *Informacijos Mokslai* 81 (2018), 13, doi: 10.15388/Im.2018.0.11937.

[3] Mar Negreiro, "Bridging the digital divide in the EU", *European Parliament,* accessed July 23, 2024, http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/573884/EPRS_BRI(2015)573884_EN.pdf.

[4] Gary E. Marchant, Braden R. Allenby and Joseph R. Herkert: The Growing Gap Between Emerging Technologies and Legal-Ethical Oversight (Dordrecht: Springer, 2011), doi: 10.1007/978-94-007-1356-7.

[5] *Peticijos.lt*, accessed July 18, 2024, www.peticijos.lt.

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processes across the globe[6], the geopolitical situation of Lithuania makes it extremely vulnerable to the cyberattacks from foreign state operators[7]. Consequently, the current electronic democracy initiatives fall under the guidance of the existing digital review. In this paper, the author has analysed the peculiarities of e-democracy, right to e-democracy and the relevant legislation of Lithuania. The author has come to a conclusion that e-democracy in Lithuania is guaranteed only in part.

Goal of the research – to explore the peculiarities of e-democracy, the right to e-democracy as well as to analyse the current legal regulation of Lithuania, in the context of e-democracy.

To provide more insight regarding the formulation of the goal, it is noteworthy to mention that e-democracy covers rights such as suffrage right (digital versions) as well as e-petition. Essentially, right now, it is unclear whether citizens have the right to exercise e-democracy technology (e-voting and e-petition systems) in Lithuania. Furthermore, even if such rights are being exercised, it is unclear whether the legal environment makes it safe for citizens to exercise these rights. Additional analysis into this topic will provide a clearer picture regarding the regulation of e-democracy and its technology in Lithuania.

Scientific problem – it is not clear whether the right to e-democracy is guaranteed in Lithuania.

Design/methodology/approach – the author will use desk research method. This method will be used to examine the concept of electronic democracy as well as its connection to digital divide or lack thereof. Furthermore, the author will analyse the right to e-democracy, which will allow the author to determine the connection between e-democracy, digital rights, and citizens' rights (or lack thereof). Finally, the author will analyse the relevant legislation of Lithuania, in order to determine whether the current regulation sufficiently safeguards the main components of e-democracy technology.

The thought process behind the selection of methodology is that the topic of e-democracy, especially in the context of law, is seldom analysed. The main concepts, their interrelation as well as the general status quo *of the legislation are relatively alien. Conversely, there does exist literature, which focuses on e-democracy and its peculiarities, even if outside of legal context. That is why the author aims to gather and systemize this information, with an attempt to apply it to the legal context. The analysis of these key topics (e-democracy and the right to e-democracy) is also crucial to introduce the readers to the final part of this article. Without knowing what e-democracy is, or how (or if) the right to e-democracy should be guaranteed, analysing the current legal regulation of Lithuania also becomes moot. Thus, desk research will be used to analyse*

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[6] Dan De Luce and Kevin Collier, "Russia's 2024 election interference has already begun", *NBC NEWS,* accessed July 18, 2024, https://www.nbcnews.com/news/investigations/russias-2024-election-interference-already-begun-rcna134204; Daryna Antoniuk, "Russian influence operations against Baltic states and Poland having 'significant impact' on society", *The Record,* accessed March 7, 2024, https://therecord.media/russian-influence-operations-baltic-poland-impact.

[7] "Lietuva patyrė intensyvią Rusijos programišių kibernetinę ataką: didžiausios problemos suvaldytos", *VERSLO ŽINIOS,* accessed June 27, 2022, https://www.vz.lt/inovacijos/technologijos/2022/06/27/atsakomybe-uz-kibernetine-ataka-pries-lietuvos-institucijas-ir-imones-prisiima-su-rusija-siejama-killnet; Martyna Pikelytė, "VRK reaguoja į VSD perspėjimus dėl Kinijos ir Rusijos galimo kišimosi į rinkimus: grėsmėms jau ruošiamasi", *Delfi,* accessed March 9, 2022, https://www.delfi.lt/news/daily/lithuania/vrk-reaguoja-i-vsd-perspejimus-del-kinijos-ir-rusijos-galimo-kisimosi-i-rinkimus-gresmems-jau-ruosiamasi-96082439.

scientific literature related to e-democracy, right to e-democracy, and finally to assess the relevant legal regulation of Lithuania.

Research limitations/implications – in this article the author focused on two citizens' rights associated with e-democracy – suffrage right and e-petition. The author mainly analysed the regulation of Lithuania. While discussed, the EU or other states' law were not the focus of this article. The author did not analyse whether the current legal regulation provides sufficient guidelines for citizens to exercise e-democracy technology, especially targeted at less digitally literate citizens. While references were made, the author did not analyse historical or political context. Author's research is limited to the status quo *of contemporary legal situation, which directly relates to the exercisability of abovementioned citizen rights as well as e-democracy technology in general. The author did not formulate recommendations or solution to the issue, related to guaranteeing citizens' rights. Rather, with this article, the author sought to initiate a discussion regarding digital divide and impact, that lack of proper e-democracy related laws can have on inviolability of citizens' rights. In addition, the results presented in this article brought clarity to this field, allowing researchers to narrow down the area of research.*

Admittedly, each sub-topic analysed could be an independent research on its own. But taking into account the applicable character limitation and the relevance of these sub-topics to the main topic, the author chose to discuss only the main aspects of each sub-topic.

Originality/Value – this paper contributes to the broader discourse concerning the implementation of electronic democracy technology. The central issue is that the domain of electronic democracy and its legal implications are scarcely discussed. Current legislation was not specifically designed to regulate the use of electronic democracy technology and fails to assess the potential risk of infringing upon citizens' rights. Consequently, the findings of this paper contribute to the discourse on how current policy should be amended to facilitate a seamless and secure implementation of e-democracy technology, while also ensuring that citizens' rights, which are exercised virtually through the use of this technology, remain inviolable. Furthermore, by guaranteeing proper implementation and usage of e-democracy technology, it could enable states to bridge the existing digital divide.

KEY WORDS

E-democracy, e-participation, e-voting, e-petition, digital divide.

INTRODUCTION

"Visions of a global knowledge-based economy and universal electronic commerce, characterised by the 'death of distance', must be tempered by the reality that half the world's population has never made a telephone call, much less accessed the Internet"[8]. A statement

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[8] Andrew Wyckoff, Alessandra Colecchia and OECD, *The Economic and Social Impact of Electronic Commerce: Preliminary Findings and Research Agenda* (Organisation for Economic Co-operation and Development, 1999), 153, https://www.oecd-ilibrary.org/docserver/236588526334.pdf?expires=1716194567&id=id&accname=guest&checksum=B8A0ADD2E3617942CF0837D6A2F45F7F.

regarding digital divide, unfortunately, even after 24 years, continues to remain true[9]. Whether the result of quantitative gap in access to information and communication technologies (hereinafter – **ICT**) or of a manifestation of poverty and exclusion[10], digital divide remains as one of the key arguments against technological determinism. After all, if technologies remain unused by the social groups that requires its assistance the most, is it reasonable to have a continuous and never-ending technological innovation?

Perhaps due to this paradox, where the continuous industrial revolution continues increasing the gap of digital divide, scientific researchers began discussing about a new industrial revolution. The so called fifth industrial revolution is meant to focus less on the speed, scope and impact of technological revolution and focus on closing the gap between humans and machines. "The fifth industrial revolution has the potential to initiate a new socio-economic era that closes the gaps between the "top" and the "bottom", creating infinite opportunities for humanity, and for a better planet"[11]. Quite a contrast from the fourth industrial revolution, where the main focus was not the humans, but rather the never-ending and limitless innovation of technology.

And while the fifth industrial revolution may contribute to bridging the digital divide, ultimately, these industrial revolutions do not happen overnight. Citizens who are less tech-savvy due to various reasons, require a solution here and now. From the technological point of view, the solution is simple – making technology safer, easier to use and more accessible. But from the legal point of view, the abovementioned solution may be artificially limited to the point where even if citizens are provided with instruments to make use of new technologies, they ultimately may not have the right to do so. Moreover, the technologies may be unsafe to a degree, where the use of such critically unsafe technologies, would automatically constitute in the infringement of citizens' rights.

Therefore, in this article the author shall focus not on coming up with new ways on how to bridge the digital divide, but rather on the present *status quo* of legal regulation. After all, a secure and effective legal environment assists in bridging the digital divide. While there are quite a few sectors (e. g. healthcare, energy, etc.) which are crucial to citizens, the author shall focus on the political sector. To be precise – the author shall analyse the digitalization of basic citizens' rights, with the focus being on e-democracy and two of its rights: the suffrage right and the right to petition.

E-DEMOCRACY

Electronic democracy on the surface may seem like a simple term, defining the digitalization of conventional democracy processes. But that could not but further from truth. The debate and

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[9] Suminas, Gudinavičius and Aleksandravičius, "Skaitmeninės atskirties požymiai ir lygmenys: Lietuvos atvejo analizė".

[10] Alfonso Molina, "The digital divide: the need for a global e-inclusion movement", *Technology Analysis and Strategic Management* 15, No. 1 (2003), 137-152.

[11] Vilma Mattila, Pratik Gauri and Prateek Dwivedi, "The fifth industrial revolution: enlightenment of 5ire towards industry 5.0", *International Journal of Creative Interfaces and Computer Graphics* 10, No. 8 (2022), 174, https://www.researchgate.net/publication/362695963_The_Fifth_Industrial_Revolution_Enlightenment_of_5ire_towards_Industry_50.

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interpretations start with the very definition of e-democracy. Åke Grönlund suggested that the unclear meaning of "e" or "electronic" in "e-democracy" tends to divide public opinion, leading people to either support or oppose the concept[12]. Fundamentally, Åke Grönlund associates the difficulties with e-democracy to either technological embrace or technophobia, implying that those initially resistant to technology are likely to reject e-democracy as well. This viewpoint clarifies why there are supportive and opposing positions regarding e-democracy.

Conversely, similar to traditional ICT, e-democracy faces the challenge of making clear to citizens the specific technology behind e-democracy systems and why they should trust them. This perspective is supported by two key factors. First, the definition of e-democracy needs to be broader as it would "help make the field more relevant to the debate on the decreasing vitality of democracy and more useful in trying to achieve changes in the practices of the formal democracy"[13].

Åke Grönlund's assertion is based on the idea that e-democracy extends beyond mere "online voting, discussion, and information projects"[14]. Democratic systems include "administrative processes regarding investigations and proposals over which political debate rage and from which information to citizens is distributed piecemeal via politicians and media"[15]. Moreover, these processes are already "saturated with IT"[16], including "decision-support systems, simulation tools, visualization tools, ERP systems, systems for economy planning and follow-up, data-mining tools"[17], among others. In essence, Åke Grönlund suggested that research into e-democracy should adopt a more "systematic and comprehensive view of the democratic systems, focusing on issues concerning the entire production chains; business procedures, knowledge management, cooperation"[18]. Several insights can be taken from this discussion. Åke Grönlund, in his narrow definition of e-democracy, includes the term "information project". The exact definition of "information project", as employed by the referenced author, remains ambiguous. One interpretation, derived from his further explanation, suggests that this term could refer to information hubs that citizens might use to support their decision-making processes regarding public affairs. Conversely, another interpretation provided by the author implies that these information projects act as open forums, allowing politicians to communicate their ideas to the public. Lastly, the term might also refer to systems that enable governments to collect data from citizens via surveys. This indicates that e-democracy extends beyond simply being a suite of ICT tools for political engagement; it also acts as a platform for either government or citizens to share broad information related to public or political matters.

Second, Åke Grönlund's perspective might be interpreted as advocating for an expansion of the scope of e-democracy research. Instead of confining the study to specific tools or platforms, he argues for a systematic and thorough investigation that penetrates the core of democratic processes. This covers administrative actions related to inquiries and proposals, and stretches to include facets such as political discussion, the spread of public information, and media

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[12] Åke Grönluns, "Democracy in an IT-framed society:introduction", *Communications of the ACM* 44, No. 1 (2001), 23, doi:10.1145/357489.357498.

[13] Ibid, 24.

[14] Ibid.

[15] Ibid.

[16] Ibid.

[17] Ibid.

[18] Ibid.

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participation. Furthermore, he emphasizes that these processes are already infused with various forms of IT, indicating that the integration of technology into democratic systems is transformative, not just supplementary.

While Åke Grönlund recognizes that e-democracy tools can improve traditional democratic processes, he argues that "ICT is much more than a tool"[19]. This two-fold viewpoint implies that Åke Grönlund considers e-democracy technology, or e-democracy as a whole, to be both an augmentative support and an independent entity. After examining the aforementioned concepts of e-democracy, it becomes apparent that although e-democracy is practically employed as a supplementary tool to existing democratic processes, it is frequently regarded as an independent concept. However, this view is not universally shared among scholars.

Narcyz Roztocki and his team assert that e-democracy forms a component of e-society[20]. Within this framework, e-society includes elements such as e-democracy, "e-business, e-commerce, e-learning, e-health"[21], and other e-concepts. E-society is defined as "a society where e-technology is fully accepted and integrated by the public in all aspects of daily life"[22]. Narcyz Roztocki sees e-democracy as a natural part of the digitalization process that emerges alongside e-society. Narcyz Roztocki downplays the notion of it as a standalone concept, seeing it instead as part of a broader societal transformation. On the other hand, the author argues that this interdependence does not undermine the uniqueness of e-democracy as a concept. Instead, it underscores that e-democracy is acknowledged similarly to well-established concepts such as e-learning.

According to Narcyz Roztocki, "[e]-democracy is the utilization of information and communication technologies, and particularly the Internet, in democratic decision-making processes"[23]. The referenced definition highlights the internet's role, thereby marking e-democracy as a distinct concept. Narcyz Roztocki revised the definition of e-democracy originally formulated by Macintosh, which characterized e-democracy as "as the use of information and communication technologies to support the democratic decision-making processes"[24]. Both concepts emphasize ICT as the pivotal element powering e-democracy, similar to the opinions expressed by other researchers[25]. Indeed, there is broad consensus that ICT is the fundamental component of e-democracy. The main variation is in the scope — whereas some authors consider only internet technologies, others expand the definition to also cover electronic technologies.

This is clearly illustrated by the perspectives of the last two authors mentioned. Although both perspectives acknowledge that these technologies are vital for enhancing democratic decision-making processes, Narcyz Roztocki further specifies the scope by particularly highlighting the significance of the internet. This emphasis on the internet recognizes its

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[19] Ibid.

[20] Narcyz Roztocki, Wojciech Strzelczyk and Heinz Roland Weistroffer, "Concepts of E-Democracy in an E-Society", *SAIS 2022 proceedings* (2022), 2, https://aisel.aisnet.org/sais2022/13.

[21] Ibid, 3.

[22] Becky P.Y. Loo, *The e-society* (New York: Nova Science Publishers, 2012).

[23] Narcyz Roztocki, Wojciech Strzelczyk and Heinz Roland Weistroffer, "Concepts of E-Democracy in an E-Society", 3.

[24] Ann Macintosh, "Characterizing e-participation in policy-making", *37th Annual Hawaii International Conference on System Sciences* (2004), 10, doi: 10.1109/HICSS.2004.1265300.

[25] Kenneth L. Hacker and Jan A. G M. van Dijk, „What is Digital Democracy?", in *Digital Democracy : Issues of Theory and Practice* (London: SAGE Publications, Limited, 2021), 1.

transformative effect on citizen engagement in the democratic process, their access to information, and their involvement in governance.

Conversely, Macintosh's original definition presents a broader perspective, not solely tied to the internet but including a wider array of ICT. The difference between these definitions is nuanced but significant. Narcyz Roztocki's definition might suggest a more modern or forward-looking approach, reflecting the pervasive role of the internet in current civic engagement. In contrast, Macintosh's definition allows for a range of technological tools that can facilitate democratic processes.

In conclusion, within the current framework, e-democracy can be perceived as both a standalone concept and a supplementary tool used to bolster existing democratic processes. As a result, the European Parliament defines e-democracy as "the support and enhancement of traditional democracy by means of ICT, and which can complement and reinforce democratic processes by adding elements of citizens' empowerment through different online activities that include, amongst others, e-government, e-governance, e-deliberation, e-participation and e-voting"[26]. Here, e-democracy is interpreted simply as a bolster to pre-existing democratic frameworks. This view is narrower than those offered by the authors previously mentioned.

While European Parliament's definition of e-democracy may seem limiting, the author argues that in the context of this article, it resembles the view of the states. After all, "giving back" the power to the citizens on a slower pace (i. e. by using a more limiting definition), in the context of contemporary geopolitical situation, may be in the interest of states. Furthermore, in practice, e-democracy is already understood as the use of ICT in democratic processes. Having finished the analysis of e-democracy, the author in the following paragraph will analyse the right to e-democracy. The concept of e-democracy will not have any legal or social significance if the citizens do not have the right to e-democracy in general. But the right itself is seldom emphasized, outside of the scientific literature. Therefore, additional discussion is warranted.

RIGHT TO E-DEMOCRACY

The right to e-democracy is not an established right. In fact, the right to democracy, outside of political context, is also a rarely used term. Usually, citizens have the right to the various components of democracy, such as freedom, private property, etc. E-democracy, in itself, as seen from the conducted analysis in the previous chapter, mainly focuses on group of rights, which are related to the political process. Therefore, right to e-democracy in itself, could be understood as an independent right, because it relates to citizens' right to take part in governance of their respective states. Since the term of e-democracy by itself prompts its connection to digital processes, it is relevant to analyse its connection to digital rights.

Digital rights is a relatively new concept which is starting to find a more frequent use in the scientific literature. To date, the definition of digital rights is not unanimous. Some authors describe digital rights as "human and legal rights that allow individuals to access, use, create and publish digital content on devices such as computers and mobile phones, as well as in virtual

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[26] "Resolution on e-democracy in the European Union: potential and challenges", *European Parliament,* accessed August 20, 2022, https://www.europarl.europa.eu/doceo/document/TA-8-2017-0095_EN.html.

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spaces and communities"[27]. The author in question separates computers, mobile phones, and virtual environments, considering digital rights to be the right of citizens to engage actively in these platforms by creating and sharing digital content. Others present a more thorough understanding of digital rights:

Digital rights" describe human rights – established by the Universal Declaration of Human Rights, UN resolutions, international conventions, regional charters, domestic law, and human rights case law – as they are invoked in digitally networked spaces. Those spaces may be physically constructed, as in the creation of infrastructure, protocols and devices. Or they may be virtually constructed, as in the creation of online identities and communities and other forms of expression, as well as the agency exercised over that expression, for example, management of personally identifiable data, pseudonymity, anonymity and encryption. Such spaces include but are not necessarily limited to the internet and mobile networks and related devices and practices"[28].

A strong emphasis on the definition provided above is the difference between "digital" and "online". In regard to the latter, this approach can be considered a transformation of existing rights, adapting them to new forms rather than creating entirely new entitlements. It alters how established rights are practiced, transitioning their exercise into digital formats. Meanwhile, the former involves the "data representation of physical entities"[29]. This creates the possibility for entirely new types of rights that may not have previously existed in the offline world, or that existed in a different form. Additionally, the term "digital" encompasses a wider range of devices that operate offline yet deliver comparable functionalities. Considering digital rights in this way leads to the conclusion that they are essentially traditional rights exercised through a different medium[30]. However, as indicated in scholarly literature, authors do not merely discuss the "digitalization" of existing rights; they recognize that the internet and its exponential growth have given rise to a new category of rights.

Examples of rights tailored for the digital era include: the right to disconnect, the right to access the internet, the right to remain uninformed, the right to revise opinions, the right to reset digital histories, the right for data to have expiration dates, the right to be informed about the value of personal data, the right to a pollution-free digital space, and the right to security in digital settings[31]. Digital rights, as illustrated by the examples, primarily focus on virtual or digital realities, digital data, and an individual's presence and interactions within these digital environments. There is a significant overlap with the rights of citizens that exist in the offline

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[27] Luci Pangrazio and Julian Sefton-Green, "Digital Rights, Digital Citizenship and Digital Literacy: What's the Difference?", *JOURNAL OF NEW APPROACHES IN EDUCATIONAL RESEARCH* 10, No. 1 (2021), 19, doi: https://doi.org/10.7821/naer.2021.1.616

[28] Jessica Dheere, "A methodology for mapping the emerging legal landscapes for humanrights in the digitally networked sphere", *2017 Special Issue - Unshackling expression: A study on law criminalising expression online in Asia* (2017), 12, https://www.giswatch.org/2017-special-issue-unshackling-expression-study-laws-criminalising-expression-online-asia.

[29] Tan Jun-E, "Digital Rights in Southeast Asia: Conceptual Framework and Movement Building", *Opportunities and Challenges in Southeast Asia* (2019), 18, https://jun-etan.com/documents/Digital-Rights-in-Southeast-Asia-Conceptual-Framework-and-Movement-Building.pdf.

[30] Ibid.

[31] Bart Custers, "New digital rights: Imagining additional fundamental rights for the digital era", *Computer Law & Review* 44 (2022), 6-12, doi: 10.1016/j.clsr.2021.105636.

world. Yet, these rights are uniquely tailored to the digital realm. After all, the concept of going "offline" can be interpreted very differently in the digital world compared to the real world.

Tan Jun-E proposed a framework that categorizes digital rights into four distinct spheres[32]. First, conventional rights in digital spaces[33]. The core concept of this sphere is that traditional rights, such as the right to vote, should also be exercisable electronically. Digital spaces are the key enablers that allow for the exercise of these citizens' rights. Earlier, the author mentioned "cyberspace" a term that, within this paragraph, can be considered synonymous with "digital spaces". Tan Jun-E emphasized that digital spaces offer protective environments for at-risk groups, such as LGBTQ individuals, and also enable citizens to assert their rights in constrained civic environments[34], like those in China.

Second, data-centred rights[35]. In the digital age, anything that can be transformed into data likely will be, and that data will predominantly be stored within a digital setting. Although citizens are the primary sources of data, examples of digitalized data include layouts of individual homes, city plans, traffic patterns, air quality, and more. Each of the data types mentioned above holds value for specific parties. Sometimes, these parties may have malicious intentions. Therefore, data protection, the security of personal data, and the privacy of such data are central concerns in this sphere[36]. Third, access to the digital[37]. As highlighted in the opening section, the digital divide is a significant consequence of the digital era. Yet, this should not be solely blamed on advancements in ICT. It is also due to the absence of an appropriate legal framework that would ensure the necessary rights. Drawing on examples provided by Tan Jun-E, the author argues that even limited internet access can lead to severe consequences. Tan Jun-E used an example of "free basics"[38]. The principal notion of this concept is that regions initially without internet access may be able to connect to specific websites, like Facebook. The limitation here is that citizens often only have access to the headlines of pertinent articles, as reading the entire article usually involves a fee[39]. This creates deeper issues, as society becomes saturated with misinformation, leading to serious repercussions. Even commonplace misinformation, where citizens can access full articles but still encounter unfounded information, can lead to fatalities[40].

Fourth, governance of the digital[41]. Of all the spheres mentioned, this one is arguably the most complex. The swift growth of the digital sector forces legislators to choose between crafting vague, overarching legal standards that address a broad range of issues, or adopting an idealistic approach akin to Hans Kelsen's vision, where every conceivable scenario is meticulously governed by specific legal norms. Codifying the digital sector alone will not fully resolve the issues it presents. As it stands, the digital sector is governed not only by public authorities but also involves significant control and influence from the private sector.

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[32] Tan Jun-E, "Digital Rights in Southeast Asia: Conceptual Framework and Movement Building", 19-20.

[33] Ibid.

[34] Ibid, 19-22.

[35] Ibid, 22-24.

[36] Ibid.

[37] Ibid, 24-26.

[38] Ibid, 26.

[39] Ibid.

[40] Alistair Coleman, "'Hundreds dead' because of Covid-19 misinformation", *BBC*, accessed August 9, 2023, https://www.bbc.com/news/world-53755067.

[41] Tan Jun-E, "Digital Rights in Southeast Asia: Conceptual Framework and Movement Building", 26.

To summarize the preceding discussion, it is apparent that digital rights are evolving into a distinct category of rights, with numerous definitions and applicable in various digital contexts. Digital rights can be described as the ability of individuals to enact their conventional rights, and potentially more, within digital environments or through electronic devices, whether through active engagement or passive participation. The definition outlined encompasses all aspects of digital rights: 1) their intent (facilitating the exercise of traditional rights), 2) their breadth (including additional digital-specific rights), 3) their method of execution (carried out digitally, within digital environments, or through electronic devices), and 4) the means of their execution (either actively, like filing an online petition, or passively, like maintaining security in digital spaces). While the definition is not flawless—particularly regarding the inclusion of electronic devices—it aligns well with the perspectives of other authors discussed previously and captures the broad spectrum of definitions surrounding digital rights.

With the definition of digital rights established, the author can now evaluate whether e-democracy is considered a digital right. Firstly, the primary purpose of e-democracy is to facilitate the exercise of citizens' traditional rights. This is evident in the utilization of rights such as the right to vote, the right to petition, and other politically oriented rights of citizens. Secondly, e-democracy extends beyond merely facilitating traditional political rights through digital channels; it also incorporates new approaches for citizens to engage politically. This encompasses new methods for voting and the application of cybersecurity measures to ensure the protection of these rights. Thirdly, e-democracy predominantly operates in digital spaces but can also extend to the use of offline electronic devices, which, based on the previously outlined definition, categorizes it as a digital right. Fourthly, the active utilization of e-democracy tools is necessary for citizens to exercise their rights, such as through e-voting systems, e-petition platforms, submitting citizen initiatives online, and commenting on legislative proposals. Fifthly, e-democracy encompasses not only the rights of citizens but also the rights of all humans. In this context, participating in governance is recognized both as a citizen's right and a human right, the latter being the right to government. This is why the above definition refers to individuals exercising these rights as "persons", rather than specifically as "citizens" or "humans". Sixthly, according to the frameworks discussed earlier, the right to e-democracy might fit within both the "conventional rights in digital space" and the "governance of digital" spheres. This is due to e-democracy incorporating established rights such as voting and petitioning, and its significant role in managing digital environments.

Given that e-democracy fulfils all characteristics of a digital right, it could be suggested that e-democracy is more than just an ancillary tool for improving democratic processes. Instead, it might be regarded as a citizen right, closely linked to digital rights, if not an outright part of them. Additionally, this indicates that e-democracy can be viewed in two different ways: either as a collection of technologies facilitating the electronic execution of conventional rights, or as a digital right fundamental to every individual. Viewing e-democracy as a digital right introduces it to distinct threats prevalent in the cyber realm. Dangers such as disinformation, misinformation, and propaganda can be as harmful as cyberattacks that lead to physical damage. In fact, disinformation can lead to significant real-world consequences, illustrated by the current conflict

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between Russia and Ukraine, where it serves to lift the spirits of combatants, thus prolonging the hostilities against Ukraine[42].

The risk of ICT misuse clearly indicates that unregulated exercise of digital rights presents significant dangers. E-democracy, similar to other technologies, can be misused in ways that contradict the desires of the populace without appropriate regulatory frameworks in place. Therefore, it is crucial to ensure that modern regulations are continually updated and effective in addressing new legal challenges. While many states face issues of digitalization, this article will focus specifically on one of these states – Lithuania.

E-DEMOCRACY REGULATION IN LITHUANIA

In order to determine the relevant legislation, the author outlined the main criteria, applicable to e-democracy-based regulation: accessibility, confidentiality, identification and cybersecurity. All four of these parameters were identified by analysing the legal literature, relevant e-democracy recommendations as well as the practice of foreign states. Finally, the criteria were amended in order to better reflect the context of Lithuania.

	Const.[43]	LEC[44]	CLoP[45]	SISM[46]	DGEISR[47]	EITS[48]	LoCS[49]	NCS[50]	NCIMP[51]
Accessibility	E-voting/e-petition is not enshrined, but not prohibited either.	E-voting is not permissible. ICT may be used for administrative tasks. ICT may be used to support candidates online (not to be mistaken with e-voting).	E-petitions are permissible, granted the requirements related to identification of a person are fulfilled.	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

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[42] Jim Heintz, "Russia's war with Ukraine has generated its own fog, and mis- and disinformation are everywhere", *AP*, accessed September 20, 2023, https://apnews.com/article/russia-ukraine-war-disinformation-f8ee274890cd62362be3dd75fbc7dd6b.

[43] Constitution of the Republic of Lithuania, *Official Gazette* 33-1014 (1992).

[44] The Election code of the Republic of Lithuania, *Official Gazette* XIV-1381 (2022).

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Confidentiality	Applicable to traditional forms of suffrage right and petition.	Applicable to traditional process of voting.	Not applicable	Information regarded as national information resource, must adhere to higher confidentiality requirements.	Changes that negatively affect confidentiality must be tested in a controlled environment. Provides a methodology used to test the confidentiality aspect. Reference to MACITS[52], which sets forth guideline, following which the compliance with DGEISR can be confirmed.	Not applicable	Not applicable	Not applicable	The infringement of confidentiality of information system is regarded as one of the criteria, when categorizing cyber security incidents
Identification	Applicable to traditional process of voting.	Applicable to traditional process of voting.	Not applicable	Not applicable	Not applicable	Electronic identification is enshrined in the law, focused on electronic signatures.	Not applicable	Not applicable	Not applicable
Cybersecurity	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Main principles of cybersecurity are established, with the focus on: non-discrimination of cyberspace, risk management of cybersecurity, subsidiary as well as the supremacy of public interest. High focus is on state-owned infrastructure.	Established the main aims of cybersecurity. Applicable to the entire digital environment of Lithuania, with the focus on the state institutions and technology used by them.	Not applicable

In his selection of relevant legal acts, the author focused not only on legislation which directly regulate e-democracy, but also on legislation, which contributes to the general creation of safe digital environment for the exercisability of e-democracy rights. The two e-democracy

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[52] Methodology for Assessing Compliance with Information Technology Security, *Official Gazette* No. V-941 (2020).

rights that the author focused on was the suffrage right and the e-petition right. In the following, the author lists the summary of his analysis.

RESULTS AND DISCUSSION

While analysing whether the right to e-democracy is guaranteed in the Republic of Lithuania, the author analysed and reviewed: (i) the concept of e-democracy, (ii) the right to e-democracy and (iii) e-democracy regulation and regulation related to the creation of the digital environment in Lithuania. The study found that:

1. E-democracy may be understood both as an auxiliary technology and as a standalone concept. The peculiarity of e-democracy relies on its use of ICT. E-democracy combines traditional rights, such as the right to vote or the right to petition, with digital rights such as the right to be forgotten, as well as more general rights—the right to internet access. The combination of these rights lead to a conclusion that e-democracy, at its current state, may be the next natural development of democracy. This could result in e-democracy becoming both a supplementary aid to centuries-old democratic rights and ideas, and a unique concept that is a right in itself. With that being said, the current understanding of e-democracy is more related to digitalization of conventional rights, i. e. from voting to e-voting, from petition to e-petition, etc. The peculiar position of e-democracy encourages states to adopt a more conservative definition. While there is no common agreement on the harmonised definition of e-democracy, the definition used by European Parliament reflects the currently held contemporary view. Consequently, e-democracy is understood as "the support and enhancement of traditional democracy by means of ICT, and which can complement and reinforce democratic processes by adding elements of citizens' empowerment through different online activities that include, amongst others, e-government, e-governance, e-deliberation, e-participation and e-voting"[53].

2. E-democracy itself possesses all the characteristics typically attributed to digital rights. This allows e-democracy to be treated as an independent right, inherent to every citizen. However, e-democracy's ambiguity and lack of use or limited use, associates it with a group of technologies, used to enhance citizens' abilities to exercise their rights online. Notwithstanding the abovementioned, taking into consideration the dualistic nature of e-democracy, and the conclusion that it contains all the aspects of a digital right, there is grounds for argument that e-democracy is not merely a group of technologies, but rather a right, which can be treated as a citizen right. Thus, citizens do have the right to e-democracy.

3. The legal regulation of e-democracy in Lithuania is in its early stages. Focusing on the right to suffrage and the right to petition, it was found that the exercisability of conventional versions of these rights is mainly related to the citizens themselves, i. e., their age, place of residence, citizenship, and other related information. These aspects of conventional rights may also be applied to the digital space. At the same time, this puts an emphasis on the ability to identify a citizen. Taking into an account that the identification of persons in digital space is even more important and difficult than in conventional space, an obvious conclusion can be made, that requirements applicable to conventional rights are not sufficient enough to maintain the integrity of citizens' rights.

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[53] "Resolution on e-democracy in the European Union: potential and challenges".

With regard to the adaptability of citizens' rights to the digital context, the author found varying results. In the case of accessibility, the author found that e-voting in Lithuania is generally not permitted. With that being said, the current legal regulations do include various elements of e-voting. These elements are usually related to administrative tasks but extend to tasks such as collecting signatures for political representatives and ensuring safe electronic identification. Additionally, the legislation established appropriate institutions that, if given the authority, would be competent to oversee e-voting. Meanwhile, e-petition is generally permitted under applicable legislation. The contrast between these two rights could be explained by the fact that a petition, even if successful, carries fewer legal implications than a successfully exercised right to suffrage.

In the case of confidentiality, a stark contrast can be observed between the handling of information by private citizens and state representatives. With regards to the former, there are no specific obligations set forth in applicable law for private citizens to maintain confidentiality, beyond the very abstract obligations applicable in a conventional context. Meanwhile, when it comes to state information, there is clear guidance on how to maintain and even test the integrity of confidentiality. This shows that if e-democracy instruments are permitted to be operated exclusively by state institutions, the applicable laws are sufficient to maintain or impose the duty to maintain confidentiality.

Analogous situation is observed in regard to identification. The difference is mainly related to the fact, that there are clear mechanisms implemented in the law which could be used in order to implement requirement of identification in e-democracy technologies. Additionally, identification is unique in a way that it can be outsourced and the state, following the guidelines provided by the EU, has established certified and trusted entities, which may provide secure identification services. Most of the identification, for now, is limited to identification by qualified electronic signature.

In the case of cybersecurity, the situation is different from the previously discussed criteria. First of all, the current law establishes clear cybersecurity principles, applicable on a wide spectre of general areas, including novel technologies. Some of these principles can be applied to e-democracy technologies, further ensuring cybersecurity. Additionally, a finite list of responsible institutions is also set forth in applicable legal regulation. A detailed list of responsibilities, competences and area of expertise is also provided. Interestingly, in the event of different cybersecurity incidents, different institutions have competences to oversee them. This is further reinforced by the general strategy of cybersecurity established in NSC. It sets forth clear aims that the state seeks to achieve in the area of cybersecurity and provides methodology for identifying critical information infrastructure. This has a potential to be closely related to e-democracy, as, based on the arguments provided in aforementioned paragraphs, the importance of e-democracy technologies may regard it as a critical infrastructure. Nonetheless, while all of these areas have the potential to be applied to e-democracy technologies, this possibility is not clearly stated in the appropriate law.

Research findings showed that there is valid doubt regarding the current legal regulation of Lithuania and its sufficiency in guaranteeing citizens' rights online. The focus of this article was e-democracy. This field of area is important, because currently, citizens in Lithuania may already use both formal and informal e-democracy systems. Lack of sufficient regulation, combined with the growing geopolitical cyberthreat and its clear influence on global elections, leads to a conclusion that current e-democracy technology does not contribute to bridging the digital divide. On the contrary, lack of legal safeguards creates a situation, where citizens' use of e-democracy technology may be compromised. This further will promote technophobia, not to mention a

glaring issue regarding the potential of infringing citizens' sovereign rights. And while it may be argued that lack of e-democracy-specific regulation will not worsen the digital divide, but it will not help to bridge it either. After all, allowing citizens to exercise their basic rights in a more convenient method, especially those rights that are directly related to state governance, promotes inclusion of less digitally literate citizens.

It is noteworthy to mention that in the June of 2024 Lithuania's institution, responsible for the election process, has introduced the results of the internet voting study[54]. While the document contains more insights, the main conclusion made was that while internet voting is generally feasible, its implementation should be delayed[55]. Amongst the reasons, trust of the citizenry, cybersecurity assurance and the current geopolitical situation were highlighted[56]. In regard to cybersecurity, both improvement of technology and regulation were emphasized. In a way, this study sort of confirms the conclusions of this article, that the current legal context of Lithuania is insufficient in enabling e-democracy based technology. It remains to be seen whether this study will contribute to enacting a new type of legal act, focused on e-democracy or its technology, replacing the old concept of i-voting[57].

CONCLUSIONS

In summary of the abovementioned, a substantiated conclusion can be made that the right to e-democracy in the Republic to Lithuania is only guaranteed in part. E-democracy as whole, especially in legal context, is a new concept. This can be seen in the contemporary regulation, where for the most part, none of the safeguards are directly associated with e-democracy or technologies used with it. Most of legal regulation which directly regulate e-democracy is usually related to conventional citizens' rights, by providing an opportunity to exercise them online (e. g. e-petition). In other words, the legal safeguards for e-democracy are more of a consequence than the intended result. But this is done without identifying the risks of cyberspace. And even when the risks are measured, they usually include general risks, but not those pertinent to e-democracy. Therefore, the current legal regulation in the Republic of Lithuania does not sufficiently cover all relevant components of e-democracy technology, as it lacks adherence to the technology in question.

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SANTRAUKA

SKAITMENINĖS ATSKIRTIES MAŽINIMAS: E-DEMOKRATIJOS TEISINĖ ANALIZĖ LIETUVOJE

Skaitmeninės prieigos atotrūkis vis didėja. Dabartinis skaitmeninės atskirties reiškinys, pastebimas tiek Lietuvos Respublikoje, tiek visoje Europos Sąjungoje, pabrėžia sudėtingą ir ilgą naujų technologijų integracijos į visuomenę procesą. Nors įvairūs sektoriai susiduria su skirtingomis problemomis, susijusiomis su technologijų diegimu į tradicinius procesus, pagrindinė problema matoma visose srityse – didėjantis atotrūkis tarp naujų technologijų ir taikytinos teisės. Technologijų, naudojamų politiniuose procesuose, tokiuose kaip elektroninės peticijos, elektroninis balsavimas ir kt., reguliavimo trūkumas lemia situaciją, kai nėra užtikrinamos pagrindinės piliečių teisės. Be to, piliečiai negali naudoti šių technologijų pagal jų tikslinę paskirtį. Galiausiai, pačios technologijos tampa neprieinamos toms piliečių grupėms, kurios labiausiai galėtų pasinaudoti jų naudojimu. Jei piliečiams neleidžiama naudotis šiomis technologijomis dėl žinių trūkumo ar neprieinamumo, kad galėtų pasinaudoti savo teisėmis dalyvauti politiniuose procesuose, tai gali būti laikoma jų teisių pažeidimu. Be to, analogiška situacija susidaro, kai piliečiai vis dėlto naudojasi šiomis technologijomis, tačiau nėra teisinių reikalavimų, kurie įpareigotų šių technologijų operatorius užtikrinti jų saugumą.

Nepaisant dabartinių saugumo problemų, elektroninės demokratijos (toliau – e-demokratija) iniciatyvos jau buvo pristatytos visuomenei. Šios technologijos suteikia piliečiams galimybę pasinaudoti savo teisėmis, tokiomis kaip peticijos teisė. Dėl augančios grėsmės demokratiniams procesams visame pasaulyje Lietuvos geopolitinė padėtis tampa itin pažeidžiama dėl kibernetinių atakų iš užsienio valstybių operatorių. Todėl dabartinės e-demokratijos iniciatyvos priklauso nuo esamų skaitmeninių peržiūrų gairių. Šiame straipsnyje autorius analizavo e-demokratijos, teisės į e-demokratiją ir su tuo susijusių Lietuvos teisės aktų ypatumus. Autorius padarė išvadą, kad Lietuvoje e-demokratija užtikrinama tik iš dalies.

Tyrimo tikslas – išanalizuoti e-demokratijos, teisės į e-demokratiją ypatumus bei išnagrinėti dabartinį Lietuvos teisinį reglamentavimą e-demokratijos kontekste.

Norint pateikti daugiau įžvalgų apie tikslo formulavimą, verta paminėti, kad e-demokratija apima tokias teises kaip rinkimų teisė (skaitmeninės versijos) bei e-peticijos. Šiuo metu neaišku, ar Lietuvos piliečiai turi teisę naudotis e-demokratijos technologijomis (e-balsavimo ir e-peticijų sistemomis). Be to, net jei tokios teisės yra naudojamos, neaišku, ar teisinė aplinka užtikrina, kad piliečiai galėtų šiomis teisėmis naudotis saugiai. Papildoma analizė šia tema suteiks aiškesnį vaizdą apie e-demokratijos ir jos technologijų reguliavimą Lietuvoje.

Mokslinė problema – neaišku, ar teisė į e-demokratiją Lietuvoje yra užtikrinama.

Tyrimo dizainas/metodologija/požiūris – autorius naudos literatūros analizės metodą. Literatūros analizės metodas bus naudojamas elektroninės demokratijos sąvokai nagrinėti, taip pat jos sąsajoms su skaitmenine atskirtimi arba šių sąsajų nebuvimui. Be to, autorius analizuos teisę į e-demokratiją, leisdamas nustatyti sąsajas tarp e-demokratijos, skaitmeninių teisių ir piliečių teisių (ar jų nebuvimo). Galiausiai, autorius analizuos Lietuvos teisės aktus, siekdamas nustatyti, ar dabartinis reglamentavimas pakankamai apsaugo pagrindines e-demokratijos technologijų dalis.

Pasirinktos metodikos logika yra ta, kad e-demokratijos tema, ypač teisės kontekste, retai analizuojama. Pagrindinės sąvokos, jų tarpusavio ryšiai ir teisės aktų status quo yra gana nežinomi. Kita vertus, egzistuoja literatūra, kurioje nagrinėjamos e-demokratijos ir jos ypatybės, net jei ne teisės kontekste. Todėl autorius siekia surinkti ir susisteminti šią informaciją, bandydamas ją pritaikyti teisiniame kontekste. Šių pagrindinių temų (e-demokratijos ir teisės į e-demokratiją) analizė taip pat būtina, kad skaitytojai suprastų šio straipsnio pabaigą. Be žinių apie tai, kas yra e-demokratija arba kaip (ar) teisė į e-demokratiją turėtų būti užtikrinta, Lietuvos teisinio reglamentavimo analizė tampa beprasmiška. Todėl literatūros analizė bus naudojama mokslinėje literatūroje aptariamoms temoms analizuoti: e-demokratijai, teisei į e-demokratiją ir galiausiai – atitinkamų Lietuvos teisės aktų vertinimui.

Tyrimo ribotumai/pasekmės – šiame straipsnyje autorius susitelkė į dvi piliečių teises, susijusias su e-demokratija – rinkimų teisę ir e-peticijas. Autorius daugiausia analizavo Lietuvos reglamentavimą. Nors aptarė ir ES ar kitų valstybių teisės aktus, jie nebuvo pagrindinis šio straipsnio objektas. Autorius neanalizavo, ar dabartinis teisinis reglamentavimas suteikia pakankamas gaires piliečiams naudotis e-demokratijos technologijomis, ypač mažiau skaitmeniškai raštingiems piliečiams. Nors buvo daromos nuorodos, autorius neanalizavo istorinio ar politinio konteksto. Autoriaus tyrimas yra apribotas šiuolaikinės teisinės situacijos status quo, tiesiogiai susijusios su minėtų piliečių teisių vykdymu bei bendrai e-demokratijos technologijomis. Autorius nepateikė rekomendacijų ar sprendimų, susijusių su piliečių teisių užtikrinimu. Šiuo straipsniu autorius siekė inicijuoti diskusiją apie skaitmeninę atskirtį ir tinkamų e-demokratijos įstatymų trūkumo poveikį piliečių teisių neliečiamumui. Be to, šiame straipsnyje pateikti rezultatai suteikė aiškumo šiai sričiai, leidžiant kitiems tyrėjams susiaurinti tyrimų lauką.

Reikia pripažinti, kad kiekviena analizuojama potemė galėtų būti savarankiškas tyrimas. Tačiau atsižvelgdamas į taikomą simbolių apribojimą, taip pat šių potemių atitikimą pagrindinei temai, autorius pasirinko aptarti tik pagrindinius kiekvienos potemės aspektus.

Originalumas/vertė – šis straipsnis prisideda prie platesnės diskusijos apie elektroninės demokratijos technologijų įgyvendinimą. Pagrindinė problema yra ta, kad elektroninės demokratijos ir jos teisinių pasekmių sritis yra retai aptariama. Dabartiniai teisės aktai nebuvo specialiai sukurti elektroninės demokratijos technologijų naudojimui reguliuoti ir neįvertina galimos grėsmės piliečių teisių pažeidimui. Todėl šio straipsnio išvados prisideda prie diskusijų,

kaip dabartinę politiką reikėtų keisti, kad būtų palengvintas sklandus ir saugus e-demokratijos technologijų įgyvendinimas, kartu užtikrinant, kad piliečių teisės, kurios naudojamos virtualiai per šias technologijas, liktų neliečiamos. Be to, užtikrinus tinkamą e-demokratijos technologijų įgyvendinimą ir naudojimą, valstybės galėtų mažinti esamą skaitmeninę atskirtį.

RAKTINIAI ŽODŽIAI

E-demokratija, e-dalyvavimas, e-balsavimas, e-peticija, skaitmeninė atskirtis.