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THE LEGAL NATURE OF E-PETITIONS

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ABSTRACT

An e-petition (online petition or internet petition) is one of the most popular ways for civil society to interact with public authorities. It is no accident that the number of countries implementing this e-democracy tool is increasing. The institution of electronic petition has its own peculiarities in each country where it has been introduced: different forms, subjects, filing procedures and legal consequences. The common feature is that the e-petition is an independent form of direct democracy through which citizens participate in the management of public affairs. The article investigates the place of e-petitions in the system of direct democracy forms, analyzes practices of using the institution of electronic petitions, shows the

establishment of the institution of e-petitions in Ukraine, reveals the concepts and features of online petitions, and highlights the problems of implementing the right to electronic petition in Ukraine.

KEYWORDS

E-democracy, information society, citizens' appeal, e-petition, legal nature

INTRODUCTION

The information society is developing in Ukraine and requires new forms of citizen-government interaction. Among the new forms of democracy, the dissemination of e-democracy and e-petitions as its instrument is dominant. The use of internet petition as an instrument of e-democracy is recognized in the legal documents of the Council of Europe and the European Union. The most successful democracies (USA, Great Britain, Germany, etc.) have accumulated considerable experience in the use of online petitions, and have created proper legal regulation that could be used in Ukraine to establish the political and legal conditions necessary for strengthening the civil society and the formation of its institutions. At the same time, the formation of the institution of electronic petitions in Ukraine is complicated by the contradictory nature of the processes of democratization, the decline in the prestige of the rights and law, disrespect for them, the randomness of legal regulation, and the strengthening of legal nihilism among both the official establishment and ordinary citizens. The military conflict, the significantly declining living standards and social insecurity threaten the democratic advances, including the institution of e-petitions, the use of the latter for the purpose of political struggle and lobbying the interests of individuals. Thus, the study of the legal nature and the essence of e-petitions, the mechanism of the implementation of this institution of direct democracy acquires not only theoretical but also practical significance.

The issue of e-petition study has grown in importance in light of recent research mostly focusing on the institution of e-petitions within the framework of constitutional rights, as well as it being a form of direct democracy. In addition, some scholars consider e-petitions through the prism of international experience; others define it as one of the information rights. Currently, in Ukraine there has been no comprehensive research on e-petitions, their legal nature, mechanisms and consequences of their use have not been defined, whereas the above, considering the interest of society in the possibility of influencing the public authorities, would facilitate more effective legal regulation of such social relations.

1. PETITION AS AN INSTITUTION FOR THE INTERACTION BETWEEN THE CIVIL SOCIETY AND THE PUBLIC AUTHORITIES

Every person has the inalienable right to participate in government. This right is enshrined in both international legal documents and national legislation. Legal theorists and constitutionalists view this right as one of the first-generation human rights, namely, inalienable, civil and political rights¹. Article 21 of the Universal Declaration of Human Rights states: "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives"².

The Constitution of Ukraine also enshrines the right of citizens to participate in the government: "The people shall be the bearer of sovereignty and the sole source of power in Ukraine. The people shall exercise power directly or through the state authorities and local government bodies."³ With regard to the forms of participation of citizens in the administration of public affairs, Article 69 of the Constitution of Ukraine determines that the people's will is expressed through elections, referendum and other forms of direct democracy.

The Constitution of Ukraine does not establish an exhaustive list of other forms of direct democracy through which citizens participate in the management of public affairs. The views on this issue among scholars vary as well. According to V.V. Nedbai, the institution of citizen petitions is one of the most popular contemporary forms of public influence on political decision-making.⁴

Petitions are a relatively new political and legal institution of citizen participation in the government. In Ukraine, the first use of the term 'petition' as a citizen petition can be seen in the Law "On the State People's Council of the Ukrainian People's Republic" adopted by the Council of People's Commissars on 12 November 1920 and approved by Symon Petliura, the head of the Directory. According to Paragraph 25 of the Law:

The State People's Council has the right to receive petitions from citizens of the Ukrainian People's Republic, private and state-registered companies, cooperatives and corporations and institutions of a public-law nature. The State People's Council may, by a separate decision, hand the petitions over to the relevant ministers and request explanations from them regarding the cases

¹ Olga Skakun, *Teoriya derzhavni prava (Theory of state and law)* (Kharkiv, 2001), 169.

² *The Universal Declaration of Human Rights* // <https://www.un.org/en/universal-declaration-human-rights/>

³ *Konstitutsiia Ukrainy (The Constitution of Ukraine)*, Vid 28.06.1996 No. 254к/96-ВР. VVR, (1996, No.30), St. 141, art. 5 // <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>.

⁴ Vyacheslav Nedbai, "Narodni petycii v polityko-pravovij systemi: zarubizhnyj dosvid" (People petition in the political and legal system: international experience), *Yurydychnyj naukovyj elektronnyj zhurnal* No. 6 (2014): 25.

related to the petitions. The ministers must give the explanations or refuse to do that stating the reasons for rejection.⁵

At the present stage of the democratic development of society, petitions have widely become one of the elements (stages) of referendums by popular initiative. Switzerland and Iceland are prime examples, due to the relatively small populations of these countries and small areas. However, petitions are mostly considered in the context of the right to petition the government. Thus, in the doctrines of most Western nations (Germany, Austria, etc.) petitions or appeals to public authorities are considered a form of implementation of citizens' participation in the affairs of society and the state, the influence of individuals or groups on the process of political and legal decision-making.⁶

The right to petition as a value of democracy is enshrined in the founding documents of the European Union, which Ukraine is striving to join as a full member. In particular, the "Treaty Establishing the European Community" contains a number of provisions on the exercise of this right by the citizens of the European Union. First of all, it is stipulated that every citizen of the Union shall have the right to petition the European Parliament (Article 21, Paragraph 1). The procedure for submitting a petition is regulated by a special article 194, according to which:

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Community's fields of activity and which affects him, her or it directly.⁷

These provisions are retained in the current Act of the Treaty on the Functioning of the European Union, paragraph d of part two of article 20 and part two of article 24 and article 227 respectively.⁸

The Constitution of Ukraine does not separately distinguish such a form of direct democracy as a petition, however, Article 40 guarantees everyone the right to send individual or collective written appeals or personally apply to state authorities, local governments and officials of these bodies who are obliged to

⁵ *Zakon pro Derzhavnu Narodnyu Radu Ukrayins'koyi Narodnoyi Respubliky (Law on the State People's Council of the Ukrainian People's Republic)*, Ukhvalenyy Radoyu Narodnykh Komisariv 12 padolysta 1920 roku. Zatverdzenyy Holovoyi Dyrektoriyi S. Petlyuroyu // <http://zakon3.rada.gov.ua/laws/show/n0002300-20®=n0002300-20&find=1&EF%EF%F2%E8%F6&x=3&y=4>.

⁶ Dmitriy Sablin, *Prava cheloveka (Human rights)* (Orenburg, 2004), 133-134.

⁷ *Consolidated versions of the Treaty on European Union and of the Treaty establishing the European Community*, Official Journal of the European Communities 2002/C 325/1.

⁸ *Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union*, Official Journal C 326, 26/10/2012.

consider the appeal and give a substantiated answer within the period established by law.

In accordance with Article 5 of the Law of Ukraine "On Citizens' Appeals", a petition is a special form of a collective appeal of citizens to the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, and the local government body. A petition that does not receive the required number of votes for its mandatory review should be considered in the manner prescribed for appeals in accordance with Article 231 of the Law of Ukraine "On Citizens' Appeals."⁹ From this definition we can conclude that the legislator considers the petition as a special form of collective appeal, which is subject to the law on citizens' appeals. At the same time, in Recommendations CM / Rec (2009) 1 of the Committee of Ministers of the Council of Europe, the petition is defined as a way of dialogue between citizens and democratic institutions, aimed at holding discussions and consultations on the issues indicated in the petition, and therefore contributes to the realization of the right to be heard.¹⁰

Being a form of collective appeal, the petition is an independent form of the realization of the right to participate in the management of public affairs. There are special requirements for the petition: signing-up for a certain period of time; gaining a certain number of signatures, depending on which authority the petition is submitted to; terms of consideration of the petition; special way to identify signers; the implementation of further work by the author of the petition aimed at gaining a sufficient number of votes to consider; coverage of the content of current petitions in the mass media and creation of informational grounds for discussion in the society.

Improving the methods and forms of implementing direct democracy, including the use of information and communication tools, has led to the emergence and spread in world practice of forms of collective appeal such as an electronic petition, which provides a special procedure for responding to the addressee and shows its importance as a method of systemic social dialogue.

Important in the study of this problem is the understanding of e-petition as a tool of e-democracy. According to the Strategy for the Development of the Information Society in Ukraine, e-democracy is a form of social relations in which citizens and organizations are involved in the state creation and government, as

⁹ *Pro zvernennya hromadyan (About the appeal of citizens)*, Zakon Ukrayiny vid 02.10.1996 No. 393/96-BP. VVR, (1996, No 47), St. 256 // <https://zakon2.rada.gov.ua/laws/show/393/96-%D0%B2%D1%80>.

¹⁰ *Rekomendatsiyi (Recommendations) CM/Rec(2009)1*, Komitet Ministriv Rady Yevropy // http://www.coe.int/t/dgap/democracy/Activities/GGIS/CANDE/2009/RecCM2009_1_and_Accomp_Docs/Recommendation%20CM_Rec_2009_IE_FINAL_PDF.

well as in local government through the widespread use of information and communication technologies.¹¹

According to A. A. Barikova, e-democracy is the use of electronic information and communication technologies to expand or improve access to information and participation in democratic communities, processes and communications.¹² Accordingly, the "e-democracy" system consists of information support, discussion and participation in the decision-making process. According to L.A. Malysenko, e-democracy with the help of new technologies is not only an effective tool, consumer service or means of communication with the public; it is able to constantly create a renewable public space and a more responsible democratic system. In any modern country, the introduction of elements of e-democracy is accompanied by the emergence of new features of society, which can cause significant changes in both the political system and the political regime of the state as a whole, in particular, to lead to a more mobile and progressive form of society, configurative one.¹³

In accordance with paragraph 35 of Recommendation CM / Rec (2009) 1 of the Committee of Ministers of the Council of Europe of February 18, 2009, constituent elements of e-democracy are: e-parliament, e-law, e-justice, e-mediation, e-environment, e-election, e-referendum, e-initiative, e-voting, e-consultations, e-petitions, e-campaigning, e-surveys and e-surveillance.¹⁴ At the level of the European Union member states, elements of e-democracy are mainly used: e-parliament, e-law, e-court, e-mediation, e-elections, e-referendum, e-voting, e-petitions, e-campaigns, and e-polling.

Usually, the introduction of electronic petitions is defined as a separate stage in the development of e-democracy, which should be preceded by the creation of a legislative framework, electronic document management and information portals (Internet resources) in central and local government bodies and local governments, electronic services for the provision of administrative services.

2. WORLD PRACTICES OF USING ELECTRONIC PETITIONS

Today, the existence of the Institute of Electronic Petitions is provided in more than 75 countries of the world. This institute has various forms, subjects of creation

¹¹ *Stratehiya rozvytku informatsiynoho suspilstva v Ukrayini (Strategy of the Information Society Development in Ukraine)*, Rozporyadzhennya Kabinetu Ministriv Ukrayiny vid 15.05.2013 No. 386-p. Uryadovyy kuryer (2013, No. 105) // <https://zakon.rada.gov.ua/laws/show/386-2013-%D1%80>.

¹² Anna Barikova, *Elektronna derzhava: nova efektyvnist uryaduvannya: monografiya (E-government: the new government efficiency)* (Kyiv, 2016), 9.

¹³ Lyudmyla Malysenko, *Vprovadzhennya elektronnoyi demokratiyi: konceptualni pidhody ta osoblyvosti procesu realizatsiyi v Ukrayini (Implementation of e-democracy: conceptual approaches and peculiarities of the implementation process in Ukraine)* (Odesa, 2009), 2.

¹⁴ *Rekomendatsiyi (Recommendations) CM/Rec(2009)1*, supra note 10.

and order of submission of electronic petitions. V. F. Nesterovich indicates that all these countries have one thing in common, namely the awareness of the incredible power and role of the Internet in deepening interaction between public authorities and the public. In this regard, the electronic tools present the future of not only democracy, but of human development as the whole. Therefore, the introduction of an electronic petition system in Ukraine is an important, timely and progressive step.¹⁵

One of the first countries where the Internet petition mechanism was first introduced at the regional level was the United Kingdom. In 1999, the E-petitioner portal was created by the Scottish Parliament, where one can send the appeal to parliamentarians in electronic form.¹⁶ The idea of the first petition for this portal was provided by a public organization, the World Wide Fund for Nature, which was asked to create a national park in several coastal areas. According to V. V. Nedbay, this petition gained votes under the slogan "our sea deserves a vote"¹⁷.

Since 2006, an Internet petition mechanism with sufficiently loyal rules has been introduced at the UK national level. But because of the huge number of petitions on very diverse issues to which, according to the accepted rules, it was necessary to react, the British government was forced to close the portal of petitions. However, in 2011, the UK government opened a new portal of petitions with more logical and detailed rules for their submission, citizens' support and government response to them. So, if the Internet petition after its publication is supported by more than 100,000 people, it should be submitted to Parliament for a hearing, where it should be accepted or rejected.¹⁸ Several petitions registered on the portal of the UK government have become well-known. The first of them was the requirement to reject the bill on the introduction of fees for the use of roads, supported by more than two million people. Despite such a massive public protest, the parliament was forced to reject the corresponding government bill. Second was a petition calling for the withdrawal of Great Britain from the European Union.¹⁹ In this case, the Parliament rejected the petition, but the UK government promised and held a referendum on the issue, which resulted in the UK leaving the European Union. Detailing and tightening the rules for submitting and considering petitions, making decisions on them in the UK did not save this process from possible comic

¹⁵ Volodymyr Nesterovych, "Instytucijne utverdzhennya elektronnykh petycij v Ukrayini v konteksti zarubizhnogo dosvidu" (Institutional approval of electronic petitions in Ukraine in the context of foreign experience), *Viche* No. 22 (2015): 22.

¹⁶ See The Scottish Parliament: Petitions // <http://www.scottish.parliament.uk/gettinginvolved/petitions/>.

¹⁷ Vyacheslav Nedbay, *supra* note 4: 26.

¹⁸ See HM Government // <http://epetitions.direct.gov.uk/>.

¹⁹ Ilya Shepelin, "Narod prosit ili kak rabotayut petitsii v raznykh stranah" (People ask or how petitions work in different countries), *Salidarnasch* (10.02.2013) // <http://www.gq.ru/person/narod-prosit-ili-kak-rabotayut-peticii-v-raznyh-stranah>.

situations. So, as noted by V. V. Nedbay, a significant publicity with the corresponding six-fold citizens' support, more than six hundred thousand people, received an appeal from a 12-year-old boy who asked to allow the sale of Indian elephants in pet shops. Parliament was forced to hold corresponding hearings and formally reject the appeal by imposing a ban on the sale of elephants in British pet shops.²⁰

In 2011, a page for placing online petitions was created on the website of the Bundestag in Germany. The basic law of the Federal Republic of Germany in article 17 establishes the right to petition to the Bundestag: "Everyone can submit in writing a personal or collective complaint to the relevant state bodies and representatives of the people's will."²¹ The creation of a special Internet page on the Bundestag website began the process of filing electronic petitions.²² This happens as follows: a special petition commission at the Bundestag analyzes the petition on formal grounds and decides whether it can be published on the Bundestag website. If, after publication, the petition will be supported by more than fifty thousand people, it should be considered at an open meeting of the petition committee with the participation of its initiators. However, as a result of the consideration of the petition, the petition committee does not take a final decision. It can only send the initiatives contained in the petition to the Bundestag for consideration with its recommendations and notes.²³

The German e-petition system was borrowed by Finland, where the petition collection service was called the "gathering of ideas" service. It was posted on the website of the Finnish Ministry of Public Service. It also establishes a qualification of 50,000 signatures that can be gained during the period specified by the author of the petition, but not more than 6 months. One can vote not only in support of the petition, but also against the idea set forth in it. Unlike most countries where there is an electronic petition institution, in Finland electronic petitions that have obtained the required signing-up automatically become bills that the parliament of this state must consider as a matter of priority.²⁴

In 2011, the "We the People" website was created in the US, where citizens can upload petitions and sign-up in support of them; and not only US citizens can post their petitions. In 2013-2014, several petitions were posted on this site in support of the Revolution of Dignity in Ukraine. Initially, each petition that gained

²⁰ Vyacheslav Nedbay, *supra* note 4: 27.

²¹ *Grundgesetz für die Bundesrepublik Deutschland (Basic laws for the Federal Republic of Germany)*, Referat Öffentlichkeitsarbeit, Bonn, 1998.

²² See Deutscher Bundestag: Petitionen (German Bundestag: Petitions) // <http://epetitionen.bundestag.de>.

²³ Mark von Lyupke and Olga Kapustyna, "Naskolko effektivnyi onlayn-petitsii v Germanii" (How effective are online petitions in Germany), *Deutsche Welle* (29.01.2013) // <http://dw.de/p/17RUL>.

²⁴ See Avoin Ministerio (Open Ministry) (2013) // <http://www.avoinministerio.fi/ideat>.

more than five thousand signatures within thirty days was to receive a comprehensive official response from the Presidential Administration. However, due to the rapid increase in the popularity of these electronic petitions and their mass support, already at the beginning of 2013 the limit on the number of signatures was increased to one hundred thousand.²⁵

Since the beginning of the website "We the People", more than 200,000 petitions have been registered on it, most of which have not received the required signing-up. As in previous cases, some curiosities arose. For example, in early 2013, a petition was registered and scored more than 100,000 signatures suggesting the construction of the Death Star. To this the Presidential Administration of the USA had to respond that this is not a completely justified expenditure of funds in the context of attempts by the government to reduce the budget deficit. In addition, the response stated that the Presidential Administration does not support the idea of destroying planets. In addition to the curious petitions, the ones concerning issues important to society are registered and gain a sufficient amount of votes. For example, petitions on the veto of the SOPA bill on combating piracy on the Internet, on strengthening measures of control over commercial firms that breed dogs and others.²⁶ The society receives the answer of these and similar petitions of the White House together with their subsequent implementation in the legislation and public policy practice.

3. FORMATION OF THE INSTITUTE OF ELECTRONIC PETITIONS IN UKRAINE

In Ukraine, the possibility of accepting and considering appeals from citizens that are submitted using the Internet for the first time was provided for by the Decree of the President of Ukraine of February 7, 2008 No. 109/2008 "On Priority Measures to Ensure the Implementation and Guarantee of the Constitutional Right to Contact Government and local government"²⁷. The first steps towards ensuring the implementation of the constitutional rights of citizens on the Internet in Ukraine were taken in 2011, when the Law "On Access to Public Information" was

²⁵ Megan Garber, "The White House Petition Site Is a Joke" (and Also the Future of Democracy), *The Atlantic* (Jan 19, 2013) // <http://www.theatlantic.com/technology/archive/2013/01/the-white-house-petition-site-is-a-joke-and-also-the-future-of-democracy/267238/>.

²⁶ See We the People: your voice in our government // <http://www.petitions.whitehouse.gov/>.

²⁷ *Pro pershocherhovi zakhody shchodo zabezpechennya realizatsiyi ta harantuvannya konstytutsijnoho prava na zvernennya do orhaniv derzhavnoyi vlady ta orhaniv mistsevoho samovryaduvannya (On priority measures to ensure the implementation and guarantee of the constitutional right to appeal to state authorities and local self-government bodies)*, Ukaz Prezydenta Ukrayiny vid 07.02.2008 No. 109/2008. Ofitsiynyy visnyk Ukrayiny, (2008, No. 10), St. 239 // <https://zakon1.rada.gov.ua/laws/show/109/2008>.

adopted.²⁸ Article 19 of the said Law already at that time suggested the possibility of submitting a request for information by e-mail. However, at that time, domestic legislation did not provide for the possibility of submitting electronic applications (including petitions, complaints, initiatives, etc.) to state and local authorities, and especially petitions.

The need to use the Institute of Petitions in Ukraine was actualized during the mass protests in Kyiv on Independence Square on November 21, 2013 and with the start of the Revolution of Dignity. The first petitions were addressed to the United States with a request to intervene in the situation in Ukraine and were posted on the White House website.²⁹ The legislative history of electronic petitions began in July 2014, when the Verkhovna Rada of Ukraine registered the draft law "On the right of citizens to initiate consideration of regulatory documents by the authorities and local government", developed by the coordinator of the campaign "For Responsible Authority" I. Kurus³⁰. In March 2015, another draft law was introduced to the Verkhovna Rada of Ukraine by the President of Ukraine, proposing amendments to the Law of Ukraine "On Citizens' Appeals" so that citizens have the opportunity to submit electronic petitions.

The Verkhovna Rada of Ukraine adopted the draft law introduced by the President of Ukraine, and on July 2, 2015, amendments were made to Article 5 of the Law of Ukraine "On Citizens' Appeals", which established that a special form of citizens' collective appeal to the President, the Verkhovna Rada, the Cabinet of Ministers and bodies of local government is an electronic petition; Section II of the Act was supplemented by Article 231, which regulates the procedure for the submission and consideration of electronic petitions. Corresponding changes were also made to the nationwide "Classifier of citizens' appeals", where the terms 'petition', 'e-mail', and 'electronic appeal' appeared.³¹

On August 28, 2015, the President of Ukraine signed the Decree "On the Procedure for Considering an Electronic Petition Addressed to the President of Ukraine", according to which the petition server was launched on the official

²⁸ *Pro dostup do publichnoyi informatsiyi (About access to public information)*, Zakon Ukrainy vid 13.01.2011 No. 2939-VI. VVR, (2011, No32), St. 314 // <https://zakon.rada.gov.ua/laws/show/2939-17>.

²⁹ "Ponad 10 petycij prot vlady Ukrainy rozmishcheno na sajti Bilogo domu" (More than 10 petitions against the authorities of Ukraine are posted on the White House website) // http://dt.ua/POLITICS/ponad-10-peticyj-proti-vladi-ukraini-rozmishcheno-na-sajti-bilogo-domu-133012_.html.

³⁰ Igor Kurus, "Z petyciyamy 'gratysya' nebezpechno" (With petitions 'play' is dangerous) // <http://www.rbc.ua/ukr/interview/igor-kurus-petitsiyami-igrat-opasno-1441981399.html>.

³¹ *Pro zatverdzhennya Klasyfikatora zvernenn hromadyan (About approval of the Classifier of appeals of citizens)*, Postanova Kabinetu Ministriv Ukrainy vid 24.09.2008 No 858. Uryadovyy kuryer (2008, No. 187) // <https://zakon.rada.gov.ua/laws/show/858-2008-%D0%BF>.

website of the President the next day.³² A few months later, namely on October 28, 2015, the Chairman of the Verkhovna Rada of Ukraine signed the Order "On Certain Issues of Organization of the Work of the Verkhovna Rada of Ukraine on the Registration and Support of Electronic Petitions Addressed to the Verkhovna Rada of Ukraine". The Office of Computerized Systems of the Parliament was entrusted with ensuring the functioning of the Electronic Petition system on the official web site of the Verkhovna Rada of Ukraine.³³ Corresponding changes were made to the Rules of Procedure of the Verkhovna Rada of Ukraine.³⁴

On February 26, 2016, the Decree of the President of Ukraine approved the "National Strategy for the Advancement of Civil Society in Ukraine for 2016-2020", which defined strategic directions and tasks, the priority of which is "ensuring effective procedures for public participation in the formation and implementation of state, regional policy, solution of local issues". For this purpose, they envisage, inter alia, "creation of an effective mechanism for the implementation of the right of citizens to apply to local governmental bodies with electronic petitions."³⁵

In pursuance of the provisions of this Strategy, in terms of the territorial communities of Ukraine, services have been created on the official websites of local governments for the submission of electronic petitions. In addition, a unified system of local petitions has been created, where citizens can submit petitions to local governments.³⁶ However, there is no obligation to create an official website (web services). Therefore, in order to save budgetary funds and time, the solution of this issue may be entrusted to public organizations that will receive electronic petitions. This is also associated with the facilitation of launch and the existence of a counterweight in the form of public portals (for example, petitions247.net³⁷).

The Law of Ukraine "On Citizens' Appeals" contains a prescription according to which "the requirements for the number of citizens' signatures in support of an

³² *Pro Poryadok rozhlyadu elektronnoyi petytsiyi, adresovanoi Prezydentovi Ukrainy (About the Procedure for Considering an Electronic Petition Addressed to the President of Ukraine)*, Ukaz Prezidenta Ukrainy vid 28.08.2015 No. 523/2015. Ofitsiynny visnyk Ukrainy (2015, No. 70), St. 2301 // <https://zakon.rada.gov.ua/laws/show/523/2015>.

³³ *Pro deyaki pytannya orhanizatsiyi roboty Aparatu Verkhovnoyi Rady Ukrainy z reyestratsiyi ta suprovodzhennya elektronnykh petytsiy, adresovanykh Verkhovniy Radi Ukrainy (On some issues of organization of the work of the Verkhovna Rada of Ukraine on registration and support of electronic petitions addressed to the Verkhovna Rada of Ukraine)*, Rozporyadzhennya Holovy Verkhovnoyi Rady Ukrainy vid 28.10.2015 No. 1494 // <http://zakon2.rada.gov.ua/laws/show/1494/15-%D1%80%D0%B3>.

³⁴ *Pro Rehlament Verkhovnoyi Rady Ukrainy (On the Rules of Procedure of the Verkhovna Rada of Ukraine)*, Zakon Ukrainy vid 10.02.2010 No. 1861-VI. VVR, (2010, No. 14-15, No. 16-17), St. 133 // <https://zakon.rada.gov.ua/laws/show/1861-17>.

³⁵ *Pro spryannya rozvytku hromadyans'koho suspil'stva v Ukraini (On promoting the development of civil society in Ukraine)*, Ukaz Prezidenta Ukrainy vid 26.02.2016 No. 68/2016. Ofitsiynny visnyk Ukrainy (2016, No. 18), St. 716 // <https://zakon2.rada.gov.ua/laws/show/68/2016>.

³⁶ See Yedyna systema mistsevykh petytsiy. Initsiyuy! Pidtrymuy! Vplyvay! (The unified system of local petitions. Initiate! Support! Influence!) // <http://e-dem.in.ua/>.

³⁷ See Petitions247.net: Podaty petytsiyu on layn (Submit a petition online) // <https://www.petitions247.net/>.

electronic petition to the local government and the time period for signing-up are determined by the charter of the territorial community.”³⁸ However, it is extremely difficult to find information on making such changes to the Statutes of companies on the websites of local governments. In fact, the services of electronic petitions now operate only with reference to the specified Law.

4. THE CONCEPT AND SIGNS OF ELECTRONIC PETITION

Ukrainian legislation contains a definition neither of the term “petition” nor “electronic petition”. Article 5 of the Law of Ukraine “On Citizens’ Appeals” only states that electronic petition is a special form of collective appeal of citizens to the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, and the local government body. At the same time, in accordance with Recommendations CM / Rec (2009) 1 of the Committee of Ministers of the Council of Europe to member states regarding e-democracy, e-petition is an electronic protest or recommendation report to a democratic institution: citizens sign a petition by indicating their name and address online and can be brought to the discussion on the petition.³⁹

There is no unity of positions among scientists. According to D. Shimkiv, e-petition as one of the tools of e-democracy is a tool for bringing socially significant issues to the country’s leaders, politicians and officials at the state and local levels, parliamentarians. The petition begins a dialogue to resolve the issues raised and supported by society.⁴⁰ V. V. Reshota suggests the following definition of an electronic petition: an electronic petition is a special kind of collective appeal that has a certain circle of recipients, must receive the support of a certain number of people for a limited time and will be considered in a special order.⁴¹ At the same time, S. Pantsyr understands electronic petitions as the use of information and communication technologies for advancing protests and recommendations to democratic institutions, citizens sign petitions and join the discussion, indicating their names and addresses online.⁴²

³⁸ *Pro zvernennya hromadyan (About the appeal of citizens)*, supra note 9.

³⁹ *Rekomendatsiyi (Recommendations) CM/Rec(2009)1*, supra note 10.

⁴⁰ Dmytro Shymkiv, “Use, shho Vy xotily znaty pro elektronni petyciyi” (Everything you wanted to know about electronic petitions), *Ukrayinska Pravda* (2015) // <http://www.pravda.com.ua/columns/2015/09/7/7080434/>.

⁴¹ Volodymyr Reshota, “Elektronna petyciya yak novyj instrument zvernennya hromadyan do organiv publichnoyi administraciyi” (Electronic petition as a new tool for citizens to appeal to public administration bodies), *Naukovyj visnyk Mizhnarodnogo humanitarnogo uniwersytetu*, Ser.: *Yurysprudenciya* Vol. 1, No. 15 (2015): 92.

⁴² Sergij Pancyr, *Elektronna demokratiya: Bila knyga derzhavnoyi polityky (Electronic democracy. White paper on State Policy)* (Kyiv, 2015), 12.

Although the electronic petition is a type of citizens' appeals and it is characterized by all the inherent features therein, it also has some peculiarities. The clarification of these features has not only theoretical but also practical value, since the current legislation of Ukraine provides for the possibility of filing not only electronic petitions, but also electronic appeals. The difference between electronic petitions and electronic appeals is manifested in the following:

1. Issues that the petition is addressed to. As noted by M. S. Mihrovskya, in the example with the usual appeal, it is necessary to bind to the direct realization of his rights (statement and petition) or the violation of such rights (complaint), while the petition is aimed at the realization both human rights, as well as freedoms and private interests, and the interests of public.⁴³ The petition as a form of appeal, which must be supported by a certain number of persons, loses its private law character, and becomes public. If the problem set forth in the petition is important not only for its initiator, but the number of signatures submitted in its support will testify to this, then the solution of the question using the method suggested in the petition is certainly public. However, domestic and foreign legal practice contains many examples when narrow group interests are realized under the guise of public interests. This significantly strengthens such trends in the spread of quasi-lobbying practices, the content of which, according to V. F. Nesterovich, is to exercise extra-legal, narrowly group and latent influence on the adoption of legal acts.⁴⁴ This can be fully applied to the institution of petitions. Thus, during the processing of information about the signatures on the first petition, which gained the required number of votes and was registered on the official website of the President of Ukraine, so-called 'bots' were discovered who tried to 'wind up' the number of signatures, as well as those whose signatures were just bought.⁴⁵

2. The subject who addresses and the subject addressed. Possession of a person the right to appeal, as emphasized by V. N. Tsymbalyuk, is a condition for the possibility of his exercising the right to freedom of speech and the expression of his views and beliefs.⁴⁶ However, domestic legislation stipulates that only citizens and persons legally residing in the territory of Ukraine have the right to appeal. This

⁴³ Maryna Mixrovskya, "Elektronni zvernennya gromadyan ta elektronni petyciyi: pytannya zakonodavchogo zakriplennya" (Electronic applications of citizens and electronic petitions: questions of legislative consolidation), *Administrativne pravo i process* No. 3(13) (2015): 82.

⁴⁴ Volodymyr Nesterovych, *Konstytucijno-pravovi zasady instytutu lobiuvannya: zarubizhnyj dosvid ta perspektyvy dlya Ukrainy: Monografiya (Constitutional and Legal Principles of the Institute of Lobbying: Foreign Experience and Perspectives for Ukraine)* (Lugansk, 2010), 570.

⁴⁵ Yaroslav Sobkiv, "Elektronna petyciya yak odne z informacijnyx prav lyudyny i gromadyanyna" (Electronic petition as one of the information rights of a person and a citizen), *Pravo i suspilstvo* No. 6 (2015): 65.

⁴⁶ Vitalij Cymbalyuk, "Sutnist prava gromadyan na zvernennya do publichnoyi administraciyi" (The essence of the right of citizens to appeal to the public administration), *Pravo i suspilstvo* No. 2 (2012): 91.

limits the rights of persons who are not citizens of Ukraine and who are outside of Ukraine or illegally staying on the territory of Ukraine and whose rights, in particular, were violated by decisions, actions or omissions of public authorities, their officials. In light of the above, it is necessary to note a positive and correct approach to this issue of other post-Soviet states, such as Moldova and Belarus, where it is stipulated that citizens, foreign citizens, and stateless persons, whose rights and legitimate interests have been violated, can file complaints. The general term 'natural individual' is fixed in the legislation of the Republic of Kazakhstan.⁴⁷ The experience of France is interesting in this aspect: any person has the right to file a complaint, and only citizens have the right to appeal to the authorities. In Germany, not only citizens, but also foreigners and legal entities have the right to appeal.⁴⁸

In turn, the right to file an electronic petition should not be associated with a stay (legal or not) on the territory of a state. The World Wide Web allows a person to communicate with the state, local government bodies, their officials and officers, regardless of one's location and citizenship. A striking example is the "We the People" petitioning portal in the United States, where anyone with access to the Internet can register and support a petition, regardless of nationality and place of stay.

At the same time, the term "citizen" is of concern, which is used in Article 5 of the Law of Ukraine "On Citizens' Appeals" in defining an electronic petition. This gives rise to the opinion that foreigners and stateless persons in Ukraine are limited in the right to submit an electronic petition. This statement is confirmed by the provision of Article 1 of the same Law, which states that persons who are not citizens of Ukraine and are lawfully located on its territory have the same right to petition as citizens of Ukraine unless otherwise provided by international treaties.⁴⁹

As for the subjects to whom it is possible to submit a petition, if a person has the right to apply to ordinary government bodies, local governments, associations of citizens, enterprises, institutions, organizations, regardless of ownership, media, officials, then with an electronic petition this is possible only to a specific circle of subjects, which are the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, and the local government body. The legislator did not include regional and district state administrations here, although, as noted by

⁴⁷ Maryna Byelikova, "Administrativne oskarzhennya v Ukrayini ta krayinax postradyanskogo prostoru: porivnyalno-pravovyy analiz" (Administrative appeals in Ukraine and post-Soviet countries: comparative legal analysis), *Chasopys Nacionalnogo universytetu "Ostrozka akademiya". Seriya "Pravo"* No. 2(12) (2015): 3-4.

⁴⁸ Andriy Myezyntsev, "Pidxody do elektronnykh petycij: zarubizhnyj ta nacionalnyj dosvid" (Approaches to electronic petitions: foreign and national experience), *Aktualni problemy derzhavnogo upravlinnya* No. 3(67) (2016): 85.

⁴⁹ *Pro zvernennya hromadyan (About the appeal of citizens)*, supra note 9.

Ya. Sobkiv, the corresponding amendments were proposed by people's deputies during the hearing of the draft law, but they did not receive the necessary number of votes.⁵⁰ There is a question about the advisability of restricting the filing of petitions to the central bodies of executive power, primarily ministries, which form policies in certain areas.⁵¹ Ministries carry out the development of important reforms: medical, educational, pension, etc. And to hear the opinions and suggestions of the society about these reforms would be extremely important.

3. The difference in the order of presentation. The electronic petition is submitted exclusively through the official website of the authority to which it is addressed, or the website of the public association that signs-up in support of the electronic petition. Thus, the submission of an electronic petition by e-mail or by other means is not allowed. The peculiarities of electronic petitions are the need to create and maintain the activities of the official website of the relevant state or local government body, which should ensure free access and use of the information and telecommunications system through which signatures are collected; electronic registration of citizens for petition signing; preventing automatic entry of information, including the signing of an electronic petition without the participation of a citizen; fixing the date and time of publication of the electronic petition and its signing by the citizen, as well as the possibility of open access publication of the answer.

4. A special order of consideration. An electronic petition is published on the official website of the relevant subject of public administration within two working days from the date of its sending by the author and is considered subject to signing-up by citizens for no more than three months from the date of publication of the petition. The procedure for the consideration of an electronic petition addressed to the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, and the local government, is determined by these authorities. Support or non-support of an electronic petition is publicly announced on the official website of the public authority to which the petition has been addressed.

5. The various results of the consideration of petitions and electronic appeal. According to the results of consideration of an electronic petition, draft laws can be developed and submitted to the Verkhovna Rada of Ukraine in the prescribed manner, aimed at resolving issues raised in the petition. No later than the next working day after the end of consideration of the petition, the answer is published

⁵⁰ Yaroslav Sobkiv, *supra* note 45: 64.

⁵¹ *Pro tsentralni orhany vykonavchoyi vlady (About central bodies of executive power)*, Zakon Ukrayiny vid 17.03.2011 No. 3166-VI. VVR, (2011, No.38), St. 385 // <https://zakon.rada.gov.ua/laws/show/3166-17>.

on the official website of the authority to which it was addressed, and must also be sent in writing to the author (initiator) of the electronic petition and the public organization that signed-up in support of the relevant electronic petition, whereas in the case of the usual appeals of citizens it is necessary to take a reasoned decision (if possible, decide the problem on its merits) and inform the citizen in writing.

Based on the identified features, we can formulate the following definition of an electronic petition: this is a type of citizens' appeal submitted electronically through a website to the President of Ukraine, the Verkhovna Rada, the Cabinet of Ministers or the local government within their competence to resolve issues public interest (except as specified in the Law).

5. PROBLEMS IMPLEMENTING THE RIGHT TO ELECTRONIC PETITION

The time elapsed since the establishment of the electronic petition institute in Ukraine allows for summarizing certain results, and identifying both positive aspects and problems in the implementation of the right to electronic petition. Of course, the introduction of another tool of civil society communication with public authorities expanded the opportunities for citizens to participate in the management of public affairs, and strengthened the possibilities for additional control over the activities of public authorities, especially at the local level. Electronic petitions have become an indicator of coverage of the most important and painful problems for society and, to a certain extent, have replaced various opinion polls, although they reflect the position of not all strata of the population, but only active Internet users. As S. Zakirova notes, Ukraine's success in implementing the petition as an e-democracy tool has already been recognized internationally. According to the UN, Ukrainians have risen by 45 positions on the development of e-participation of citizens over the past two years and entered the top 35 countries of the world by this index.⁵²

At the same time, practice shows that often electronic petitions are published on the website of a public authority on issues the resolution of which is not within the competence of the relevant authority. For example, during the existence of a web portal for the submission of electronic petitions on the website of the President of Ukraine, a trio of leaders formed among petitions: Petition No. 40 - to legally approve the right of citizens to protection, which gained 34,974 signatures; petition

⁵² Svitlana Zakirova, "Elektronni petyciji v Ukrayini: dosyagnennya i problemy dvorichnogo dosvidu" (Electronic petitions in Ukraine: achievements and problems of two years of experience) // http://nbuviap.gov.ua/index.php?option=com_content&view=article&id=2992:elektronni-petitsiji-v-ukrajini-dosyagnennya-i-problemi-dvorichnogo-dosvidu&catid=8&Itemid=350.

No. 55 - the abolition of customs clearance and excise tax on auto imports, 32,345 signs; Petition No. 1606 on the appointment of Saakashvili as Prime Minister of Ukraine, 25,837 signs.⁵³ After analyzing the content of these petitions, we come to the conclusion that the provisions of the Law of Ukraine "On Citizens' Appeals", which establish the institution of electronic petitions, are imperfect. For example, the appointment of Prime Minister M. Saakashvili cannot be the subject of an electronic petition, since the Constitution of Ukraine clearly defines the procedure for appointing the head of government. The same applies to the excise tax, since the Constitution of Ukraine stipulates that the introduction of taxes and fees is governed exclusively by laws. Similar comments apply to the petition on the firearms licence. As you can see, violations of the jurisdiction of submission of electronic petitions allow public authorities to be limited to formal replies and not to decide the problem on its merits.

In the expert environment there is a perception that several filters should be set to consider an electronic petition so that the right to be heard is respected. Many contend that a petition which has received more than 25,000 signatures should be considered not only by the President, but also by the Verkhovna Rada of Ukraine. According to experts, the effectiveness of the petitions would be significantly higher if they were addressed to the Verkhovna Rada.⁵⁴

The portal of electronic petitions on the website of the Verkhovna Rada of Ukraine creates additional opportunities for citizens to appeal to people's deputies. This is explained by the fact that people's deputies not only have the right, but are obliged to respond to the requests of their voters. But the attention of the leadership of the Verkhovna Rada of Ukraine to the work of site is almost absent; therefore, petitions, which are often more serious in content than those published on the site of the President of Ukraine, do not gain the necessary number of votes. As S. Zakirova notes, during the first three-month functioning of the official portal of the Verkhovna Rada of Ukraine, the only petition that has collected more than 21,000 signatures is dedicated to the preservation of out-of-school art education. The second by rating - more than 2000 signatures - is associated with the lifting of parliamentary immunity. All other petitions (there are more than two thousand of them) did not even get one thousand, and some even mere hundred of votes.⁵⁵

⁵³ See Elektronni petyciyi (Electronic petitions), Oficijne Internet-predstavnyctvo Prezydenta Ukrainy // <https://petition.president.gov.ua/>.

⁵⁴ Svitlana Zakirova, "Elektronni petyciyi v Ukraini: stanovlennya systemy ta mexanizm diyii" (Electronic petitions in Ukraine: the formation of the system and the mechanism of action) // http://nbuviap.gov.ua/index.php?option=com_content&view=article&id=1576:elektronni-petitsiji-v-ukrajini-stanovlennya-sistemi-ta-mekhanizm.

⁵⁵ Svitlana Zakirova, "Efektyvnist systemy elektronnyx petycij v Ukraini: analiz i zasterezhennya pershogo dosvidu" (Effectiveness of the Electronic Petition System in Ukraine: An Analysis and Warning of the First Experience) //

We believe that the so-called 'war of petitions', that is, the registration of several petitions with the opposite content, significantly reduces public confidence in the institution of electronic petitions. In such cases, the public authorities to which the electronic petition is addressed have the opportunity not to consider the problem discussed in the petition at all, referring to the ambiguity of public opinion. In particular, this situation has developed, for example, around the Kiev-Pechersk Lavra, about changing the status of which three petitions were filed at once to the Kyiv City Council, each of them gained the number of signatures necessary for consideration.⁵⁶ The Petition "On the sign-up of the community of the city for the transfer of the Kyiv-Pechersk Lavra from Moscow to the Kyiv Patriarchate" published on December 10, 2015 - 13,549 signatures, sent for consideration on December 10, 2015. Published at the same time on December 11, 2015 Petition "On the sign-up of the community of the city for the preservation of the Kyiv-Pechersk Lavra in the subordination of the canonical Ukrainian Orthodox Church" - 20 511 signatures, sent for consideration on December 16, 2015; the Petition "On the sign-up of Kyiv, to prevent the transfer of the Kyiv-Pechersk Lavra to the Kyiv Patriarchate" - 11,130 signatures, sent for consideration on December 17, 2015.

Another important problem is the high popularity among Ukrainians of the submission and support of the so-called 'petitions-jokes'. Ukrainian legislation does not prohibit such petitions; moreover, petitions-jokes, like other appeals, should be worked out, and in case of the required number of votes, get an answer. In particular, on September 8, 2015 on the website "Electronic Petitions" of the official Internet site of the President of Ukraine, the petition No. 22/004829-ep "Darth Vader, the Prime Ministers of Ukraine" was made public, the content of which noted: "Please support the petition on the appointment of the Prime Minister of Ukraine of Dark Lord Darth Vader." This petition gained 25396 votes, and the answer was given by the President of Ukraine. In particular, the response noted:

In accordance with Article 40 of the Constitution of Ukraine and Article 23¹ of the Law of Ukraine "On the Citizens' Appeals", I have reviewed the electronic petition "Darth Vader, the Prime Ministers of Ukraine" posted on the website of the President's official Internet site signed by more than 25,000 citizens. I note that the issue of appointing the Prime Minister of Ukraine is regulated by the Constitution of Ukraine and the Law of Ukraine "On the Cabinet of Ministers of Ukraine". According to the Constitution of Ukraine, the Prime Minister of Ukraine is nominated by the Verkhovna Rada of Ukraine on the proposal of the President

http://nbuviap.gov.ua/index.php?option=com_content&view=article&id=1901:efektivnist-sistemi-elektronnikh-petitsij-v-ukrajini&catid=8&Itemid=350.

⁵⁶ See Servis elektronnykh petytsiy Kyivskoyi miskoyi rady (E-petitions service of Kyiv City Council) // petition.kyivcity.gov.ua/petitions/?tp=1.

of Ukraine (clause 12 of Article 85, part two of Article 114). The President of Ukraine should make such a presentation preceded by the corresponding proposal of a coalition of deputies in the Verkhovna Rada of Ukraine, formed in accordance with the Constitution of Ukraine (Article 83, paragraph 9 of the first part of Article 106).⁵⁷

In our opinion, publication, and then providing a response to such "comic" electronic petitions by public authorities devalues the very essence of this institution of direct democracy, allows recipients of electronic petitions to treat them frivolously, limiting themselves to formal answers and not take the petitions seriously, neglecting the appeals on the problems really interesting to citizens. In addition, an analysis of electronic petitions published on the official websites of public authorities shows the presence of a large number of identical or similar electronic petitions, which disperses the attention of civil society to a particular problem, and accordingly the number of votes in support of such petitions. The inattention of petitioners who do not check the registered array of petitions for their appeal leads to the fact that in different periods of time the same content of petition can be registered; however, none of them gains votes for consideration. After all, the well-known Ukrainian proverb works: there are three Hetmans for two Ukrainians.⁵⁸

We believe that the practice of duplicating the content of electronic petitions can also be specifically used by interested parties to disperse the votes of citizens so that the important issue for the society described in the petition is not supported and, accordingly, the status of a mandatory public authority is not obtained. For example, on September 12, 2017 D.S. Monatko on the site "Electronic Petitions" of the official Internet site of the President of Ukraine announced the petition No. 22/039736-ep "On the application of severe response measures to "break through" the borders of Ukraine by an apatriote Saakashvili⁵⁹, and on September 15, 2017 S.B. Pchelnikov published the petition No. 22/039730-ep of the relevant content "Bringing to justice all those involved in the illegal crossing of the border by Saakashvili."⁶⁰ The question arises, if S.B. Pchelnikov raises the problem and ways

⁵⁷ Petytsiya "Darta Veydera – v premyer-ministry Ukrayiny" (Petition "Darth Vader – to the Prime Ministers of Ukraine"), vid 8.09.2015 No. 22/004829-ep. Ofitsiynnyy sayt Prezydenta Ukrayiny // petition.president.gov.ua/petition/4829.

⁵⁸ Olena Kotlyarchuk and Xrystyna Kvarcyana, "A yak u nykh? Elektronni petyciyi: mizhnarodnyj dosvid ta Ukrayina" (And what about them? Electronic petitions: international experience and Ukraine) // <https://rada.oporaua.org/video/8981-a-iak-u-nykh-elektronni-petytsii-mizhnarodnyi-dosvid-ta-ukraina>.

⁵⁹ Petytsiya "Pro vzhyttya surovyykh zakhodiv reahuvannya shchodo "proryvu" derzhavnoho kordonu osoboyu bez hromadyanstva Mikheilom Saakashvili" ("On the use of emergency measures to respond to the "breakthrough" of the state border by a stateless person Mikheil Saakashvili"), vid 12.09.2017 No. 22/039736-ep. Ofitsiynnyy sayt Prezydenta Ukrayiny // <https://petition.president.gov.ua/petition/39736>.

⁶⁰ Petytsiya "Prytyahnennya do vidpovidalnosti vsikh prychetnykh za nezakonnyy peretyn kordonu hromadyanynom Saakashvili" (Petition "Prosecution of all those involved in the illegal crossing of the

to solve it in the same way as stated in the petition of D.S. Monatko, it would be more logical not to formulate another petition but to promote and sign-up in support of an e-petition already published. Therefore, we agree with A. Mezentsev's opinion about the need to make changes to the list of requirements, filters up to the content of electronic petitions, which would prevent the possibility of making appeals that are identical or similar in content.⁶¹

Verification is required not only for the content of the petition itself, but also for the authenticity of citizens' signatures. This is a worldwide practice, since in all countries where there is an electronic petition system, moderators detect false signatures. Experts note that the world statistics for incorrect signatures ranges from 5 to 20%.⁶² In Ukraine, there are no general statistics for such an issue, but the Presidential Administration of Ukraine conducted an analysis of the signatories of one of the most popular petitions in Ukraine "On the right of citizens for protection" and it turned out that about 12% of the so-called 'bots' who signed add votes to the total in support of the petition.⁶³ These figures did not generally change the situation, because even under such conditions this petition gained significantly more signatures than provided by law. But a thorough verification of signatures is necessary in order not to allow any manipulation of support voices to discredit the system of electronic petitions in Ukraine.

It is also necessary to pay attention to the fact that the provisions of the Law of Ukraine "On Citizens' Appeals" are such that the public authorities must give an answer to all petitions, even if the content of these petitions is absurd. Even if the petition was signed by only two people, the authority to which it is addressed is also obliged to provide a personal response to it. For those who did not provide a response to an electronic petition, administrative liability is provided. In our opinion, the Law of Ukraine "On Citizens' Appeals" contains a subjective factor, as it only obliges to give an answer, but does not define the criteria for what it should be. In this regard, part of the petitions may be actively implemented, and some be ignored. Even after the petition has gained the necessary number of signatures, the decision to implement this initiative is not in the legal, but in the political perspective.

border by a citizen Saakashvili"), vid 15.09.2017 No. 22/039730-ep. Ofitsiynyy sayt Prezidenta Ukrayiny // <https://petition.president.gov.ua/petition/39730>.

⁶¹ Andriy Myezyencev, *supra* note 48: 87.

⁶² Svitlana Zakirova, *supra* note 54.

⁶³ Yaroslav Sobkiv, *supra* note 45: 65.

CONCLUSIONS

The support of e-petition, as a way of interaction between civil society and public authority, is constantly growing. Not by chance, more and more countries are introducing this e-democracy tool. In each country where it enters, the institution of electronic petition has its own characteristics: different forms, subjects, procedure(s) for filing, and legal consequences. A common feature is that e-petition is an independent form of direct democracy, according to which citizens participate in the management of public affairs. In contrast to the usual appeal, an electronic petition has a much narrower circle of recipients, must receive the support of a certain number of people for a limited time and is considered in a special order. Among e-democracy tools, e-petition takes an intermediate place between receiving information and making decisions. An electronic petition may relate to any issue, except those for which the prohibition is established by law.

In Ukraine, the Institute of Electronic Petitions has been established in 2015, when relevant changes were made to national legislation and the corresponding web portals of the highest state authorities began to be created, namely the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine. Local governments also create their own web portals for submitting electronic petitions or participate in the Unified system of local petitions. In practice, public institutions that accept electronic petitions start the relevant web portals. A special feature of the Institute of Electronic Petitions in Ukraine is that electronic petitions are not imperative (mandatory for public authorities), but of a consultative nature. Consultative petitions are used to study public opinion and establish the burning issues of society and government. Such a petition has no legal consequences.

The practice of establishing the institute of electronic petitions in Ukraine has shown the existence of a number of legally unresolved issues. First of all, the need remains for the regulatory definition of the concept of "electronic petition", as well as the expansion of the list of requirements for the content of the electronic petition itself to prevent the possibility of submitting ones identical or similar in content. In addition, at present the law determines that an electronic petition, which did not gain the required number of signatures in due time, after the deadline for signing-up, is considered as an appeal of citizens in accordance with the Law of Ukraine "On Citizens' Appeals". However, the issue of the procedure for the implementation of petitions, which will be considered as individual appeals, remains unresolved. Another organizational-legal problem is the possibility of voting by the same persons from different e-mail addresses, which distorts the representativeness of

the data for signing-up in support of an electronic petition. Other problems also include the threat of abuse and possible manipulation of electronic petitions, in the case of using this tool of direct democracy by individuals or groups of individuals for personal purposes, in particular, by making outrightly populist proposals. In particular, this concerns taxation, reducing the retirement age, raising social standards and other issues that the state is not able to solve in the manner suggested in the petition. In addition, petitions should not become an instrument of struggle between political parties, their associations, especially before elections.

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