

Transitional justice research in the digital age: Western Balkans results

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Abstract. In the rapidly evolving technological landscape, the digitization of the justice system in Albania holds tremendous potential for increasing efficiency and effectiveness. This study aims to comprehensively analyse and evaluate the implementation of digital technologies in Albania's judicial system. Using analysis and synthesis, historicism, and hermeneutic methods, the study explores the concept of an information society and delves into the historical development of information technology in the Western Balkan region. It reveals that while the telecommunications infrastructure in these countries still requires improvement, the integration of information technology can optimize court processes, reduce resolution times, and enhance overall efficiency. By enabling audio-visual recording and online broadcasting of court sessions, the judicial process becomes more accessible and transparent for citizens. Moreover, the study uncovers the prevalence of challenges that hinder democratic performance in the Western Balkan countries, particularly within the judiciary. However, the introduction of digital technologies fosters an objective and transparent environment, mitigating the challenges and potential risks of corruption. The study also examines the implementation of digital documents and electronic digital signatures, a crucial step in the digitization of transitional justice. The use of digitally signed electronic documents offers numerous advantages, including time savings, accurate information retrieval, convenience, cost-effectiveness, control, and ease of use. Additionally, the study emphasizes the importance of digital archives for transparency and accountability, as well as the need to respect privacy and uphold citizens' constitutional rights related to information and access. The practical significance of this study lies in its potential to inform the development of a program aimed at optimizing and improving the digital technology system within the judicial systems of the Western Balkan countries, with a special focus on Albania

Keywords: digital technologies; justice system; information society; accessibility

Introduction

Technological advances have not only changed the way people participate in transitional justice processes but have also affected the way scholars can study these processes. New platforms for social interaction and increased access to data generated by political and transitional institutions, such as parliaments, judiciaries, or other human rights bodies, on the one hand, and the participation of a wide range of individuals through online platforms, on the other, allow for analysis at a level of precision and detail that was previously impossible (Wilding *et al.*, 2018). The utilization of digital tools enables the gathering, examination, and

presentation of extensive data sets, enhancing the exploration of justice-related matters. The adoption of digital methodologies enhances accessibility to information, transparency, and public engagement in diverse discussions on issues.

The study aims to comprehensively examine the impact of digital technologies on the country's legal system. On the one hand, the introduction of new information and communication tools can help to increase the efficiency and accessibility of legal processes. On the other hand, questions arise as to how to ensure cybersecurity, transparency, and privacy in this digital environment. Challenges also include the need

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to adapt legislation to new realities, ensure access to digital tools for all segments of the population, and address issues related to ethics and privacy in online justice systems.

M. Boskovic (2021) highlights the progress made by Western Balkan countries towards joining the European Union, particularly through the implementation of judicial reforms. Although these reforms aim to improve the efficiency and integrity of the judiciary, there is still a lack of trust in the justice system in the Western Balkans. International indices express significant concerns about the effectiveness of these reforms. The author examines and contrasts the outcomes of reforms in key justice areas, focusing on efficiency, accessibility, and judicial independence. However, the researcher does not explore the digitalization of the judicial system in the Western Balkans and its potential impact on efficiency, accessibility, and transparency. E. Topcu and S. Fišo (2022) in their study examine the general geopolitical and economic situation of the Western Balkans, as well as the justice system and its history. Scholars generally describe the situation without delving into the issue of digitalisation.

The issue of the rule of law and access to justice is covered by A.D. Edgar (2021). The rule of law principle, which encompasses both a legal concept and a political plan, is a key basis for the achievement of all sustainable development goals. In addition, this principle is recognised as an essential component of one of the global goals of sustainable development. The author conducts a detailed analysis of the judicial system of the Western Balkan countries but does not study the development and improvement of the digitalisation of the judicial process, which in turn helps to obtain a high level of compliance with the rule of law.

H. Haider (2018) notes that the countries of the Western Balkans have been involved in various justice processes for a long period of transition. There is a growing consensus among experts and specialists that to promote meaningful changes in the transitional justice system, it is necessary to go beyond the judicial processes prevailing in the region and to actively introduce alternative mechanisms and safe spaces of interaction in these affected communities. However, the author does not study the issue of the digitalisation of the judicial process as a mechanism for improving the entire system.

Professor I. Kisić (2013) examines the prospects of the Western Balkan countries' accession to the European Union, discusses opportunities for regional cooperation and identifies key challenges. According to the professor, the lack of genuine Europeanisation of the region is a problem of transition for both the Western Balkans and the European Union. However, the author does not focus on the fact that the introduction of information technologies offered by the European Union will accelerate European integration.

The study aims to examine the process of integrating digital technologies into the Albanian judicial system.

Materials and methods

The research analysed the implementation of digitalisation within the Albanian judiciary, corruption levels in the Western Balkans, and relevant legal documents, including the Commission Directive of the European Parliament and the Council. Additionally, sources such as the Human Rights Report on Albania and the Human Rights Report on Montenegro were used (Commission Staff Working Document..., 2018;

Bureau of Democracy, Human Rights, and Labor..., 2021). The analysis employed methods such as analysis and synthesis, historicism, and the hermeneutic approach.

The study employed a comprehensive method of analysis, including comparative analysis. This method involved a systematic comparison of various aspects of the digitalisation of the Albanian legal system with similar processes in other countries, which allowed to identify the strengths and weaknesses of digital transformation, as well as opportunities for improvement and implementation of effective solutions. The comparative analysis was also conducted to consider the context of other countries and to make adaptations, which may be useful in developing recommendations and strategies for further steps in the digitalisation of the justice system in Albania. Documentary analysis, namely the study of official documents, legislative acts, regulations, and other publicly available materials related to digital transformation in the Albanian judiciary.

The synthesis method was used in the study to combine and analyse various elements of the digital transformation of the judicial system in Albania and other Western Balkan countries (Montenegro). This method allows to create a generalised picture of the impact of digital technologies on justice in the country, identify the main trends and define the key aspects of digital reform. This method helped to generalise information and develop a comprehensive approach to understanding various aspects of the digital transformation of justice in the Western Balkans, in particular in Albania and Montenegro.

The historical method was used to understand the stages of implementation of digital initiatives and to find out what factors and events in the country's history influenced decision-making on digital transformation in the justice sector. This method was used to determine how the legal system has changed under the influence of technological innovations and what historical events have shaped the development of digital justice in Albania. The analysis of the historical context helped to understand the peculiarities and challenges that arise in the process of digitalisation of the judicial system in this country, as well as to understand the reasons and circumstances that facilitated or hindered the introduction of digital technologies into the country's legal system. This method was used to identify the factors that influence the success of digital initiatives in the context of historical dynamics and experience.

The hermeneutic method was used to gain an in-depth understanding and interpretation of the legislative texts that reflect the interpretations, opinions, and context of digital transformation in the Albanian judiciary. This method was used to study the European Union's legal acts on the digitalisation of the judiciary in the Western Balkans and the government as a whole. This method allowed to consider the different perspectives, interpretations and cultural peculiarities that influence the introduction of digital technologies in Albanian justice.

Results

The modern Albanian society reflects the complex processes that include organisational, legal, economic, political, and other aspects. These processes are related to the development, implementation, use and development of computer systems to meet the information needs and interests of citizens, society, and the state. Particular attention is paid to

changes in the field of e-democracy, including the formation and development of e-parliament, voting systems, e-justice, and other aspects in line with European practice.

According to the Declaration of Principles “Building the Information Society – A Global Challenge in the New Millennium”, the information society is seen as a concept focused on the interests of people, accessible to all and aimed at developing potential (Chlevickaitė *et al.*, 2021). The term

“information society” is defined as a conditionally defined category that reveals the level of communication between people using the latest technologies for creating, transmitting, receiving, storing, and processing information. In the modern context, it is possible to recognise the conflict of values between the information and traditional society that arises in connection with the implementation of scientific and technological progress.

Table 1. The spread of the Internet in the Western Balkans

	Albania	Kosovo	Montenegro	North Macedonia	Serbia
Year 2021	75.6%	94.1%	73.3%	81.4%	80.99%
Year 2022	77.2%	97.3%	81.1%	79.8%	81.0%

Source: M. Dervishi *et al.* (2022)

Information technology tools used to proactively support the work of judges and court clerks include word processing and word processing applications. These programs allow judges and court staff to formulate their decisions or prepare cases for hearings in an electronic format. In the context of legal research, a variety of tools and applications, from CD-ROMs to Internet and local area network software, provide judges with access to materials such as statutory law, appellate court decisions, rulings, and court procedures (Preshova *et al.*, 2017; Kholiavko *et al.*, 2021). Office applications, along with legal tools, can be used in conjunction with models or templates of standardised decisions to help judges streamline the process of formulating decisions. Other IT tools used to directly support judges and court clerks include electronic case law databases, electronic messaging systems, and Internet-based communication tools.

Case registration and management systems are moving from traditional court case registers to electronic databases that incorporate information from court proceedings. The functionality of such systems goes beyond case registration to cover areas such as data collection on-court productivity, court financial management, and (non)litigation management systems. These systems include functionality for tracking the progress of cases, planning courtroom phases and schedules, and document management.

The electronic exchange of information between courts and their stakeholders is based on a variety of tools. In particular, persons applying to the court often use the court’s website to access various information about court activities, such as online case tracking. Forms of documents can be found on this website and can be submitted electronically. Additionally, there are electronic registers, such as trade and real estate registers (Hajdari *et al.*, 2014).

The use of SMS messages allows litigants to receive information on the status of their cases and their place in the queue for consideration. Concerning the use of technology in court proceedings, this includes hardware and software tools to facilitate the presentation of a case, such as videoconferencing, electronic evidence presentation software, imaging, scanning and barcoding equipment, as well as digital audio and real-time data recording technologies.

Albania completed the implementation of an IT system for case management in January 2010. The implementation of the “Integrated Case Management Information System” (CCMIS/ICMIS) was funded by the European Community since 2007. The new system includes registration of cases, assignment of cases to judges by drawing lots, statistics,

website, etc. CCMIS/ICMIS will replace the existing Ark IT system, which is currently used by some courts and simplifies the daily work of all courts and persons applying to the court (Pyshchulina, 2020). Additionally, a new electronic archive system for all court cases was implemented between 2010 and 2012, approved by the Albanian Ministry of Justice. Both systems can be used to manage and archive court cases.

Modern digital technologies are changing the social and economic aspects of both public and private institutions. While it may seem that any innovation in data management is a completely new beginning many of the new phases and pillars of data management are based on previous achievements.

Data management must consider advances in hardware, storage, computer networks and technologies such as virtualisation and cloud computing. All of these technological aspects are transforming the way data is processed and used, and so big data represents an emerging trend that is a result of these technological changes. Big data is gaining importance as it enables organisations to collect, store, manage and control information to gain the knowledge they need.

The inactivity of the judiciary and low levels of funding have led to a decrease in the efficiency of the judiciary in the Western Balkans. Most countries have long-running trials that are pending but dragging on for many years, leading to a significant backlog of cases. The introduction of digital technologies in the judiciary, including video recording of court hearings and automated protocols drawn up by an officer in the courtroom, can make the work of the courts more transparent and accessible. Without hesitation, this digital transformation also has the potential to reduce corruption in the judiciary and increase public confidence in the judicial process.

When looking at the history of the judiciary in the Western Balkans, it can be argued that the influence of the communist judicial culture and the aftermath of civil wars have contributed to the prioritisation of the legal system. Historically, the Western Balkan countries have not had much experience in developing strong political and judicial systems that would ensure the effective implementation of the law.

According to the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (Commission Staff Working Document..., 2018), the introduction of digital technologies in the judiciary, such as random case assignment and court marking, can contribute to increasing efficiency, transparency, and accessibility in the justice sector.

According to the human rights report, independent media in Albania that actively express their views on the political and judicial systems face a significant number of challenges, which often negatively impact the democratic performance of justice institutions.

As far as corruption is concerned, all the countries of the Western Balkans face problems in the judicial system. All countries in the region score low on Transparency International's Corruption Perceptions Index (CPI) (Table 2).

Table 2. Corruption Perceptions Index 2022

Place	1	2	65	84	85	101	101
Country	Denmark	Finland	Montenegro	Kosovo	North Macedonia	Albania	Serbia
Score	90	87	45	41	40	36	36
World Economic Forum EOS	84	87	38	-	36	42	41
Global Insight Country Risk Ratings	83	83	47	35	47	35	35
Bertelsmann Foundation Transformation Index	-	-	53	37	45	41	37
IMD World	96	94	-	-	-	-	-
Bertelsmann Foundation Sustainable Governance Index	97	88	-	-	-	-	-
World Justice Project Rule of Law Index	88	86	-	38	40	29	32
PRS International Country Risk Guide	100	93	-	-	-	32	32
Varieties of Democracy Project	79	78	45	56	27	27	29
Economist Intelligence Unit Country Ratings	90	90	-	-	37	37	37
Freedom House Nations in Transit Ratings	-	-	44	36	47	42	47

Source: E. Vllahiu (2022)

USAID's assistance to Albania has actively contributed to the improvement of the legal procedure, in particular by developing strategies to improve the transparency and openness of the judicial process. Particular attention was paid to optimising the documentation received by the courts (Tulchynska *et al.*, 2021). The use of digital technologies, such as audio recordings of court hearings and public trials, contributed to the transparency goals. In particular, the introduction of a system of random case assignment and the detailing of the assignment protocols have enhanced transparency and increased public confidence in the judiciary. The use of modern digital technologies for stenographic recording in courtrooms has had a positive impact on the work of the courts, reducing the backlog of cases and reducing delays in their consideration. This indicates an increase in the efficiency of the courts and a reduction in the risk of corruption during the trial.

In June 2014, the new Regulation (EU) No. 910/2014 of the European Parliament and of the Council "On Electronic Identification and Trust Services for Electronic Transactions in the Internal Market and Repealing Directive 1999/93/EC" (2014) took effect. Albania intended to accede to this document, however, since Albania is not a member of the European Union, there was a need to implement mechanisms at the state level for paperless procedures in various sectors. In Albania, a need to introduce electronic documents at the institutional level arose, which in turn led the Albanian government to introduce the use of digital signatures and digital printing. The e-IDAS Directive, also known as the Directive, aims to improve trust in electronic transactions within the

internal market. Its primary objective is to establish a unified framework for secure electronic communication among citizens, businesses, and public authorities. Additionally, it aims to improve the effectiveness of online services, e-business, and e-commerce, both in the public and private sectors, across the European Union.

Albania, in line with the objectives of harmonising its legislation with the EU *acquis*, implemented Law of the Republic of Albania No. 107/2015 "On Electronic Identification and Trusted Services" (2015). The system of filing electronic documents using electronic signatures in court is an effective and modern approach that promotes the convenience and security of processes. The parties may create their court documents in digital format, but to file such documents, an electronic digital signature must be applied. An electronic signature can be generated using cryptographic keys and is used to confirm the authenticity and integrity of a document (Takacs, 2018; Tomço *et al.*, 2018). The advantages of using electronic documents with an electronic digital signature can be divided into seven categories: time-saving, access to accurate information, comfort, no financial costs, control, and ease of use.

Discussion

The study found that the Western Balkan countries are actively introducing information technology into the justice system, relying on audiovisual recordings of court hearings, digital platforms, and other technological tools. However, there is an unevenness in this process between different countries in the region. The introduction of information

technology has the potential to increase public trust in the judiciary by making court proceedings more transparent and accessible. However, it is important to bear in mind that the success of this implementation may depend on the level of technological literacy of the population.

Discussing the results obtained, it should be noted that the research conducted by D. Kostovicova *et al.* (2022). The argumentation of their study focuses on the potential benefits of the digitalisation of archival data of court decisions and cases. The archival digitisation of court decisions opens up new opportunities for researching the history of justice. By providing access to digital archives, researchers can effectively analyse the evolution of court decisions, identify trends, and study the impact of various factors on justice in transition. In addition, digital data can serve as a basis for further research, allowing scholars and students to study legal precedents, analyse justice system reforms, and explore historical contexts.

It is worth agreeing with the results of the study, as this initiative not only contributes to the development of science and education but also makes legal information more accessible and understandable to the general public. The study also concluded that the digital transformation of justice archives can be a powerful tool for ensuring transparency, analysis, and improvement of the legal system in transition.

A team of researchers, including M. Vidas Bubanja *et al.* (2023), conducted a study on technological change, in particular in the context of the COVID-19 pandemic and geopolitical transformations that have affected working conditions and the functioning of public authorities. The results of this study indicate that companies in the Western Balkans have realised the criticality of developing digital skills among employees and their IT knowledge. Although the level of digital literacy of citizens in the region was not specifically analysed in this study, the analysis indicates that the issue of training and development of employees, in particular in the judiciary, is becoming an important aspect of management in the context of modern technological transformations.

The study conducted by V. Prifti *et al.* (2020) examines the operations of a management information system. It explains how the system accumulates and processes extensive data, and disseminates this information to managers at different hierarchical levels to facilitate decision-making, planning, implementation, and control. The study also explores various aspects of utilizing digital technology. The implementation of a management information system is a crucial phase that involves organizing the information systems management department and procuring relevant software. According to the researchers, adopting management information systems helps enterprises enhance functionality, resulting in increased productivity, profits, and streamlined workflows across departments. Overall, the study adds an important contribution to the understanding of the interaction between information technology and management processes, pointing to potential benefits for modern organisations. The same conclusion was reached by a related study, which emphasises that management information systems are becoming an essential tool for achieving efficiency and increasing trust in the judiciary. Improved productivity, increased accuracy of decisions and simplification of administrative processes are identified as key benefits of introducing these systems into the work of the judiciary. In summary, the study adds a significant contribution to the understanding of how information technology can improve the functioning

of the judiciary and ensure a more efficient judicial process.

L.R. Mahmutaj and N. Jusufi (2023) highlight the significance of companies taking a proactive approach to utilising the opportunities presented by emerging digital technologies and the ongoing digitisation within government agencies. The research confirms the significant role of digital skills in promoting the development of innovative products and services, improving efficiency, and clarifying the relationship between digital technologies, innovation, and digital skills in small and medium-sized enterprises in the Western Balkans. It is worth emphasising that the results demonstrate the importance of digital skills in driving innovation and increasing the likelihood of success in the modern business environment. Particularly interesting is the identification of factors, such as staff training and specific digital skills development activities, that significantly affect the innovation potential of organisations.

In comparison to the relevant study, it is worth noting that the present study also provides an important contribution to understanding the relationship between digital technologies, digital skills, and the successful application of digital skills by various authorities in the region. In particular, highlighting the role of digital skills in addressing current challenges for authorities, such as digital transformation and global change, provides authorities, including the judiciary, with guidance for effective development.

Considering the issue of digitalisation of the judicial system, it is worth noting the scientific work of S. Seubert and C. Becker (2021), who noted that during the period of introduction of digital technologies into everyday life of the European Union, the latter has strengthened its recognition of European fundamental rights, in particular, highlighting the importance of privacy protection. The privacy-based regulatory corridor is seen as a key element in shaping the future European legal architecture. This article argues that constitutional protection of individual rights has both a personal and democratic dimension. It safeguards the integrity of communication structures that are crucial in facilitating democratic self-determination. This perspective differs from discussions on privacy protection, which often overlook the democratic significance of a private sphere in society. Using the concept of interaction and a discourse-theoretical model of democracy, this article argues for establishing a conceptual connection between privacy and the concept of communicative freedom. From this perspective, defining a European fundamental right to private action can be seen as an effort to contribute to the overall development of European democracy.

The relevant study also raised the issue of privacy and personal data protection, and this study underlines the importance of such protection in the digital age and its important contribution to democracy in the European Union. It is important to bear in mind that the growth of digital technologies can put personal data at risk, and addressing this issue is an important task for ensuring the balanced development of society, in particular in terms of the rights and freedoms of citizens. However, the growth of digital technologies in the justice sector is facilitating access to justice through several innovative measures and technological improvements. Electronic systems allow for the online filing of documents, which allows parties to interact with the legal system more quickly and efficiently. The use of videoconferencing technologies allows for remote court hearings and consultations, reducing the need for physical presence and simplifying the

process. The creation of electronic databases provides quick and convenient access to legal information, contributing to increased transparency and awareness. Developing mobile applications that provide legal advice and access to resources can make legal services more accessible to citizens. The introduction of online dispute resolution platforms can simplify the process of resolving certain legal issues directly online.

Therefore, the introduction of modern technology in this context plays a key role in improving justice and ensuring the efficiency of judicial processes. Please note how this contributes to improving access to justice, optimising the work of judicial institutions, and increasing public confidence in the legal system. The benefits of using information technology in the resolution of court cases, including faster and more accurate decisions, transparency, and increased data security, can be highlighted. Call for the further development and introduction of innovative technologies in the legal sector to ensure that they meet the requirements of the modern world.

Conclusions

Modern technological and socio-cultural challenges make it necessary for the justice system to adapt to new realities. In this context, the Western Balkan countries are deciding to introduce information technology to improve the efficiency and accessibility of judicial services, as well as to increase public trust in the justice system.

Transition periods and complex historical contexts in the region shape the functioning of judicial systems. In particular, problems with corruption, lack of transparency and lengthy proceedings, as well as low efficiency and limited access to court procedures are becoming important aspects. The introduction of information technology can be a key tool to overcome these challenges. Digital technologies can facilitate the automation and optimisation of court processes, leading to faster trials and a reduction in the backlog of cases. The introduction of audiovisual recordings of court hearings and digital protocols can provide additional transparency and objectivity in court decisions.

In addition, digitalisation will improve the interaction between litigants. The introduction of an electronic document management system and online services for the parties can simplify the process of filing documents and reduce the complexity of the process.

An important aspect is the introduction of a web conferencing system that will allow court hearings to be held online. This will not only save time and resources but also ensure an efficient court process, especially in cases where the parties need to be located in different regions.

These technological innovations have a great potential to change the dynamics of the Albanian judicial system, ensuring its modernisation and improving the quality of justice. However, the success of this process will depend on proper implementation, reliable information security and support from all stakeholders in the legal system.

Overall, the introduction of information technology into the Albanian justice system is a strategic step towards creating a modern, efficient, and transparent legal system that meets the requirements of a modern society. However, it is necessary to consider this process in conjunction with broader reforms in the justice sector. The introduction of information technology into the justice system of the Western Balkans is a relevant and promising area of development. This requires joint efforts of the countries of the region and the support of international partners to achieve successful results in improving judicial systems.

Transitional justice in the digital age has several further areas of research, including a closer look at electronic case registration systems, online access to court information and other innovations, as well as research on cybersecurity in the justice sector and legal information systems.

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Conflict of interest

None.

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Правосуддя перехідного періоду в епоху цифрових технологій: досвід Албанії

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Анотація. У технологічному середовищі, що швидко розвивається, оцифрування системи правосуддя в Албанії має величезний потенціал для підвищення ефективності та результативності. Це дослідження спрямоване на комплексний аналіз та оцінку впровадження цифрових технологій у судову систему Албанії. Використовуючи аналіз і синтез, історизм і герменевтичні методи, робота досліджує концепцію інформаційного суспільства та заглиблюється в історичний розвиток інформаційних технологій у регіоні Західних Балкан. Це показує, що, хоча телекомунікаційна інфраструктура в цих країнах усе ще потребує вдосконалення, інтеграція інформаційних технологій може оптимізувати судові процеси, скоротити час вирішення та підвищити загальну ефективність. Завдяки можливості аудіовізуального запису та онлайн-трансляції судових засідань судовий процес стає доступнішим та прозорішим для громадян. Крім того, дослідження розкриває поширеність проблем, які перешкоджають демократичній діяльності в країнах Західних Балкан, особливо в судовій системі. Проте впровадження цифрових технологій сприяє створенню об'єктивного та прозорого середовища, пом'якшуючи виклики та потенційні ризики корупції. Дослідження також розглядає впровадження цифрових документів і електронних цифрових підписів, що є вирішальним кроком у цифровізації правосуддя перехідного періоду. Використання електронних документів із цифровим підписом пропонує численні переваги, включаючи економію часу, точний пошук інформації, зручність, економічну ефективність, контроль і простоту використання. Крім того, дослідження підкреслює важливість цифрових архівів для прозорості та підзвітності, а також необхідність поваги до приватного життя та захисту конституційних прав громадян щодо інформації та доступу. Практичне значення цього дослідження полягає в його потенціалі для розробки програми, спрямованої на оптимізацію та вдосконалення системи цифрових технологій у судових системах країн Західних Балкан, з особливим акцентом на Албанії

Ключові слова: цифрові технології; система правосуддя; інформаційне суспільство; доступність