

## Legislative regulation of online and remote learning in higher education institutions

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**Abstract.** Online education is a significant part of the educational process in Ukraine, particularly with the onset of the COVID-19 pandemic and, in 2022, a full-scale war, which determines the relevance of research on the regulatory framework to ensure the quality, accessibility and inclusiveness of distance education. The study aimed to address and evaluate the legislative regulation of distance learning in higher education institutions. The study analysed regulatory documents and statistical data from education authorities in Ukraine. The study determined that the existing legislation does not fully meet the requirements of the 21<sup>st</sup> century and needs to be updated and integrated with new provisions that consider the specifics of digital education. The study established that the existing legal norms do not guarantee equal access to educational resources for all students, especially in the context of distance learning. This underscores the need for legislative changes to ensure that all students have equal access to the necessary materials and technology, regardless of their socio-economic status or place of residence. For instance, the Law of Ukraine No. 2145-VIII “On Education” does not contain sufficiently clear provisions that would oblige educational institutions to provide technical support for distance learning. The analysis of the Law of Ukraine No. 2145-VIII “On Education” shows that the regulatory framework does not include quality standards adapted to distance learning. The results of the study highlight the need to develop comprehensive legislation that would cover all aspects of distance and online learning. This includes harmonisation

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of national regulations with international standards, introducing flexible quality control mechanisms, and supporting equal access to educational technologies. For instance, the experience of Germany, with its regional laws that detail general federal requirements, can serve as an example for the development of such regulations in Ukraine. The practical significance of the study is to develop recommendations for improving the legislative framework for online and distance learning in higher education institutions

**Keywords:** information society; legal support; e-education; digital educational platforms; virtual reality

### Introduction

In the context of globalisation and the rapid development of technology, the education system is undergoing significant transformations. The COVID-19 pandemic, which began in 2019, has forced educational institutions around the world to quickly switch to distance learning. In Ukraine, these processes were further complicated in 2022 by the Russian full-scale war against Ukraine, which highlighted the importance of creating an effective regulatory framework to ensure the quality, accessibility and inclusiveness of distance education.

The research problem is determined by the lack of clear standards and quality criteria for online and distance learning, which creates risks for the educational process, making it difficult to ensure the same conditions and learning outcomes in different educational institutions. Moreover, the issue of accessibility is particularly relevant in the context of social inequality and differences in technical support for students, which needs to be considered in legislation to ensure equal opportunities for all. In addition, the inclusiveness of learning requires particular attention, as the distance learning format can both create new opportunities for people with disabilities and create new barriers that need to be considered and overcome (Kulyk, 2023).

One of the main challenges is ensuring high-quality distance education. The lack of clear standards and quality criteria for online learning, in turn, leads to a decrease in the level of knowledge and skills of students. The relevant issue was addressed by O.B. Kosheleva *et al.* (2022). The authors concluded that online learning provides students with free access to knowledge, and the ability to choose higher education institutions (HEIs) regardless of geographical location and study at a convenient time and their own pace, but this choice negatively affects the quality of knowledge gained. K. Dzhezhera (2023) shares a similar opinion. The author emphasises the need to ensure the quality of distance learning through the adoption of information and communication technologies (ICTs), additional intellectual and time costs for teachers, as well as increasing the motivation of teachers through the promotion of distance technologies.

As the world is rapidly changing under the influence of technological, social and economic factors, it is necessary to combine the efforts of various parties to create a high-quality and effective educational process (Khmelnitska & Tkachenko, 2023). Government authorities play a key role in creating the regulatory framework and funding educational programmes. They should provide adequate support to educational institutions, promote innovation and the introduction of the latest technologies in the educational process. A related issue is also raised by A.A. Oleshko *et al.* (2021). The authors conclude that combining the efforts of all these parties will help create conditions for students to fully develop both general and professional competencies. V.M. Kuharenko and V.V. Bondarenko (2020) investigated theoretical and methodological approaches to solving an important problem, distance learning. An analysis of various examples of

distance learning demonstrated that effective planning and implementation of the educational process during a crisis requires not only creative approaches but also serious organisational measures. These measures should be implemented not only by the educational institutions themselves but also at the highest levels of management. S. Rzhechyska (2022) highlights the peculiarities of educational management in the context of distance learning, as well as a comprehensive comparative analysis of distance education in artistic higher education institutions. The study determined the effectiveness of distance education, outlined the advantages and disadvantages of such education, and noted the need for legislative support of this learning format.

With the development of distance learning, the knowledge control system has undergone major changes. It became possible to conduct online exams and tests that students could complete from any location. The respective issue was studied by O. Nalyvaiko and K. Kutsyna (2022). The authors addressed new approaches and methods of assessment, the structure of knowledge control institutions, integration into the higher education system, interaction with employers and the relationship between national development and the process of knowledge control. The study proposed to create independent centres for diagnosing educational achievements, which will initially operate under the auspices of the Ministry of Education and Science of Ukraine and later become independent regional centres. The main factor in the success of this concept is the adoption of a new law called “On Distance Education”.

European countries have diverse experiences in regulating online education. For instance, the UK has a Quality Assurance Agency (QAA) that sets standards for distance learning. In Germany, the legislation includes provisions on e-learning that regulate requirements for programmes, technical support and data protection. M.M. Tereshchuk (2022) analysed the theoretical aspects of legal regulation, defined the legal status of distance education in Europe and addressed potential improvements. Based on the analysis of national and international legislative acts, as well as EU strategies, the researcher puts forward proposals for improving legal regulation to ensure the quality, accessibility and inclusiveness of distance education in Europe. In this context, N. Paziura (2023) addressed the peculiarities of ensuring the quality of education in the countries of the East Asian region, in particular, different approaches to creating conditions for the provision of quality educational services, legislative support for reforms and trends in the development of higher education. The study conclusions show that countries in the region are striving to meet international standards to improve academic mobility and trust in the quality of education, using similar quality assessment mechanisms, but have different regulatory bodies and approaches to the accreditation of educational programmes. However, there are still issues that have not been studied in previous research,

namely, the analysis of regulations governing the process of distance education in higher education institutions.

The study aims to review the current legislation in the field of higher education on the regulation of distance learning. The objectives of the study were to identify key challenges and problems related to the organisation of online and distance learning in higher education institutions, as well as to determine the prospects for regulatory regulation in this area.

### Materials and methods

The legislative acts of Ukraine related to this area were employed as primary sources to address the legislative regulation of online and distance learning in higher education institutions. Particular attention was devoted to the analysis of the provisions of the Law of Ukraine No. 1556-VII “On Higher Education” (2014) and other relevant regulations governing this type of educational process. Analysis of Law of Ukraine No. 1556-VII (2014) in the context of distance education defined the concept of distance education, as well as how the legislation regulates various aspects of this learning, from integration and quality of programmes to organisational requirements and financial support, which provided a comprehensive approach to the development of distance learning in Ukrainian universities.

The study first analysed the Constitution of Ukraine (1996), which is the main legal document governing the education system in the country. The analysis of the provisions of the Constitution of Ukraine (1996) revealed the basic legal principles for the educational system and how the country’s main law supports the right of citizens to education, regardless of the form of education. Then, the Law of Ukraine No. 2145-VIII “On Education” (2017) was analysed. This law officially recognises distance learning as a full-fledged form of education. This determined its importance and potential for increasing the accessibility of education in modern society.

This study analysed data from international organisations to identify gaps and prospects for the development of the legislative framework. The study analysed data from the United Nations Educational, Scientific and Cultural Organisation (2020). This analysis determined the scale and global impact of the pandemic on traditional learning, which highlighted the importance of developing legislative solutions to regulate distance education in Ukraine. The next legal act that was studied in the research is the Order of the Cabinet of Ministers of Ukraine No. 286-2022-p “On Approval of the Strategy for the Development of Higher Education in Ukraine for 2022-2032” (2022). The analysis showed that the document lays a solid foundation for the integration and development of distance education as an important element of the higher education system. In addition, in the context of distance higher education, the Letter of the Ministry of Education and Science of Ukraine No. 1/9-576 “On the Temporary Transition to Distance Learning” (2020) and Letter of the Ministry of Education and Science of Ukraine No. 1/9-249 “On the Organisation of Current, Semester Control and Certification of Education Applicants Using Distance Technologies” (2020) was analysed. The study of these bylaws and regulations was used to analyse the recommendations and requirements for organising and conducting distance learning in educational institutions aimed at ensuring the continuity of the educational process and improving the quality of online learning in the context of the COVID-19 pandemic.

Law of Ukraine No. 2155-VIII “On Electronic Identification and Electronic Trust Services” (2017) was also addressed in the context of distance education. This law provides legal grounds for secure identification of participants in the educational process and recognition of the legal force of electronic documents. The analysis of this law formulated reasonable recommendations for improving e-services and technologies that are critical for the organisation of effective distance learning.

### Results

Distance learning has become an integral part of the educational process in higher education institutions around the world. This training format began its development even before the COVID-19 pandemic, but it was the global health crisis that significantly accelerated its implementation and widespread adoption. Due to the quarantine restrictions and the need to ensure the continuity of the educational process, HEIs were forced to quickly switch to a distance format, which became a challenge but also opened new opportunities for the educational system.

The first attempts to organise distance learning date back to the mid-20<sup>th</sup> century. During this period, distance learning courses were introduced that used traditional means of communication, such as mail and television. This allowed students to receive learning materials, complete assignments, and communicate with instructors without physical presence at the institution (Dhawan, 2020). For instance, some universities sent printed materials through the mail, and television was used to broadcast lectures and curricula. While this approach has expanded access to education, it was limited by a lack of interactivity and quick feedback between students and teachers.

The breakthrough in distance learning came with the development of the Internet and digital technologies in the late 1990s. The emergence of the global web created new education opportunities, allowing for interactive online courses and learning platforms that provided access to materials at any time and from anywhere in the world. This was made possible by rapid advances in information and communication technologies, including the development of web technologies, and multimedia and video conferencing tools. In the late 1990s and early 2000s, the first online education platforms appeared. They offered not only access to learning materials, but also interactive elements such as discussion forums, video lectures, and knowledge assessment systems (Bozkurt & Sharma, 2020). These innovations accelerated the development of distance learning, making it increasingly popular among students around the world. Distance learning has evolved from an alternative way of acquiring knowledge into a full-fledged form of education that competes with traditional teaching methods.

Online education continues to expand its horizons by introducing the latest technologies, such as artificial intelligence, and virtual and augmented reality, which further enrich the learning process and make it more accessible and effective (Villegas-Ch *et al.*, 2024). Before the COVID-19 pandemic, many HEIs were already actively using distance learning elements in their programmes. This allowed students who could not attend classes in the traditional format for various reasons to continue their studies. However, most educational institutions still prefer traditional face-to-face classes.

The COVID-19 pandemic, which broke out in late 2019, has become one of the most serious challenges for the global education system. This period was marked not only by the healthcare crisis but also by fundamental changes in the educational process. The pandemic has become a catalyst for an accelerated transformation of educational practices that would normally take much longer. The rapid spread of the coronavirus has forced many governments around the world to introduce strict quarantine measures, including the closure of schools and universities, to stop the spread of the virus. These measures led to a sudden and massive shift to distance learning (Bonafant & González, 2020). According to United Nations Educational, Scientific and Cultural Organisation (2020) at the peak of the pandemic, more than 1.5 billion students from all continents were forced to interrupt their traditional education due to the closure of educational institutions. This unprecedented challenge forced educational institutions to adapt quickly and find new ways to ensure the continuity of the educational process. Distance learning has become the only real alternative to maintain access to education during the global crisis. To support the learning process in conditions of limited physical contact, educational institutions around the world rapidly integrated a variety of digital tools and platforms (Dhawan, 2020). These platforms made it possible to conduct lectures, seminars and discussions in real-time, creating the illusion of being in the classroom. In addition, learning management systems such as Moodle, Blackboard and Canvas are widely used. These systems provided centralised management of training materials, tasks and assessments, which facilitated the organisation of distance learning. Teachers and students were forced to quickly adopt new technologies and adapt their teaching and learning methods to the online format (Chetty *et al.*, 2020). Such actions required additional effort and time but maintained the continuity of the educational process.

While distance learning has become a necessary response to the crisis, it has also revealed several challenges. Not all students had equal access to technology and the Internet, which created significant barriers to participation in the learning process. Problems with the quality of communication, lack of proper equipment and unfavourable home conditions significantly hampered the learning process for many students. Moreover, many teachers faced difficulties in adapting their courses to the online format. They had to rethink teaching approaches to ensure interactivity and student engagement and develop new assessment methods to suit the distance format (Bao, 2020). However, the pandemic also accelerated innovation and experimentation in education. It stimulated the introduction of the latest technologies, such as virtual and augmented reality, adaptive learning and artificial intelligence. These technologies have opened new opportunities for personalising learning, increasing its effectiveness and accessibility.

The impact of the pandemic on education was not limited to one country or region. It was a global crisis that required international cooperation and exchange of experience. Governments, educational institutions, and technology companies have joined forces to develop and implement solutions that preserve access to quality education. Many countries have stepped up their efforts to develop national infrastructure for distance learning, providing schools and universities with the necessary resources and support (Hodges & Fowler, 2020). Since 2020, distance learning has

become an integral part of the educational landscape. The experience gained during the pandemic has become an important lesson and an incentive to further develop and improve the education system, making it more flexible, accessible and inclusive. Legal and regulatory frameworks are a key element for integrating distance learning into the higher education system and its effective functioning.

The Constitution of Ukraine plays a fundamental role in shaping the legal framework of the country's educational system. Article 53 Of the Constitution of Ukraine (1996) proclaims the right of everyone to education, stating that "complete general secondary education is compulsory". According to this article, the state guarantees accessibility and free education in state and municipal educational institutions and undertakes to promote the development of education at all levels, including higher education. In the context of distance and online learning in HEIs, Article 53 of the Constitution of Ukraine (1996) becomes a fundamental principle that requires the adaptation of the educational system to the latest technologies and learning environments that have emerged since 2020. Information technology is fundamentally changing teaching methods and access to knowledge. Article 53 emphasises the need to ensure accessibility of education, which in the 21<sup>st</sup> century is increasingly linked to the integration of distance learning. The COVID-19 pandemic necessitated a rapid transition to distance learning, which has highlighted the need to adapt legislation to new realities. Ukrainian legal framework is gradually expanding to meet the demands of the digital age.

Thus, Law of Ukraine No. 2145-VIII "On Education" (2017) sets forms of education, including distance learning (Article 9). Article 53 of the relevant law establishes the rights and obligations of persons receiving education, namely, persons receiving education may register on state information resources and platforms for distance learning on their own or with the help of their legal representatives. In addition, during martial law, an emergency or a state of emergency declared following the procedure established by law, the state provides special guarantees for students and employees of educational and research institutions. This applies to both those who remained at their place of study or work and those who were forced to change their place of residence due to circumstances caused by the special period. Regardless of the current place of residence, all participants in the educational process (students, teachers, researchers) have the right to continue their studies or work. The educational process can be organised in a remote form or in another format that is safe for all participants. This guarantees the possibility of continuing education and research in safe conditions adapted to current risks and circumstances (Article 57-1).

The main document regulating the activities of higher education institutions in Ukraine is the Law of Ukraine No. 1556-VII "On Higher Education" (2014). This law defines the legal, organisational and financial framework for the functioning of the higher education system in Ukraine. Article 49 denotes the possibility of obtaining higher education in various forms, including distance learning. According to Article 49 Law of Ukraine No. 1556-VII (2014), distance learning is a form of education that focuses on the individual needs of each student and takes place in conditions where teachers and students are at a considerable distance from each other. This process is organised through specialised platforms that use the latest psychological,

pedagogical, information and communication technologies to ensure effective interaction between all participants in the educational process.

Distance learning became critical during the COVID-19 pandemic and continued to transform the higher education system in Ukraine. The response to these challenges was the approval of the Order of the Cabinet of Ministers of Ukraine No. 286-2022-p “On Approval of the Strategy for the Development of Higher Education in Ukraine for 2022-2032” (2022) which sets directions and tasks for modernising the educational process, through the introduction and improvement of distance learning. This document defines the key tasks for higher education institutions and sets priorities to ensure the competitiveness of Ukrainian education at the international level. One of the most important aspects of the Strategy for the Development of Higher Education in Ukraine is the introduction of distance learning as an integral part of the educational system in the 21<sup>st</sup> century. The main objectives of this document in the context of distance learning are to provide higher education institutions with the necessary technologies and resources for distance learning. It also provides opportunities for teachers to develop their digital skills and learn the latest online teaching methods; develops and disseminates e-learning materials, courses and platforms accessible to all students; and overcomes barriers for students with disabilities and those living in regions with limited access to the Internet.

Based on constitutional principles, Ukraine is developing legislative norms that regulate the introduction and use of distance learning. In addition to the laws already mentioned, there are numerous regulations and governmental decrees that regulate this process in detail. Given the situation with the COVID-19 pandemic, the Letter of the Ministry of Education and Science of Ukraine No. 1/9-576 “On the Temporary Transition to Distance Learning” (2020), which deals with the temporary transition to distance learning, was issued. This document became a substantial guideline for higher education institutions and vocational schools, defining recommendations for organising the educational process under quarantine restrictions. The Ministry’s letter emphasises the need to temporarily switch to distance learning due to the epidemiological situation in the country. The Ministry of Education and Science recommends that educational institutions temporarily switch to distance learning to minimise the risk of infection for students and staff. The document emphasises the need to ensure a continuous learning process, even in a distance format. This includes adapting curricula and teaching methods for online work. Ensuring the health and safety of students and teachers is a priority. The letter of the Ministry of Education and Science of Ukraine No. 1/9-576 (2020) calls for maximum adaptation of the educational process to the epidemiological situation.

Earlier, the Ministry of Education and Science has already provided detailed recommendations on the organisation of current and semester control, as well as certification of students in distance learning. These recommendations were set in the Letter of the Ministry of Education and Science of Ukraine No. 1/9-249 “On the Organisation of Current, Semester Control and Certification of Education Applicants Using Distance Technologies” (2020). The main aspects of these recommendations include that in distance learning, ongoing monitoring should be carried out through electronic learning management systems and other online platforms.

Assessment should be transparent, with a clear definition of the assessment criteria, which ensures clarity for students. Semester exams and tests may be conducted in the format of online exams or tests using video conferencing technologies. Online tests with automatic scoring were recommended to simplify the assessment process. Regarding the certification of students, the defence of qualification works can be organised in a remote format using video conferencing, which allows for academic transparency and compliance with the requirements for defence. Documentation related to certification can be signed with electronic signatures, which simplifies administrative procedures.

Of the above, it is worth noting the Law of Ukraine No. 2155-VIII “On Electronic Identification and Electronic Trust Services” (2017) which creates a legal framework for the introduction and use of electronic identification means and electronic trust services in Ukraine. This law is an important element of the country’s digital transformation, which has a direct impact on the development of distance education. Law of Ukraine No. 2155-VIII (2017) regulates the use of electronic means for identifying persons and confirming the authenticity of electronic documents, which are critical to ensuring the legitimacy and security of distance learning. In the context of distance education, electronic identification reliably confirms the identity of participants in the educational process, which ensures the accuracy of student registration for online courses and their participation in the educational process. The use of technologies such as BankID, MobileID or digital signatures helps to prevent fraud and forgery. The use of electronic identification simplifies students’ access to online platforms and distance learning resources by providing automatic user authentication and data protection (Anger *et al.*, 2020). In addition, electronic trust services facilitate the legitimate settlement of contractual and legal issues in the educational process, including the signing of contracts between students and educational institutions, the registration of academic records, and other administrative documents. Law of Ukraine No. 2155-VIII (2017) significantly contributes to the development of distance education in the country. It creates a legal and technological framework for the safe and effective use of electronic technologies in the educational process. Introduction of the Law of Ukraine No. 2155-VIII (2017) allows higher education institutions to provide quality and affordable education to students, regardless of their location, and promotes Ukraine’s integration into the global educational community.

The management of the educational process in higher education institutions is not limited to laws and regulations (van der Spoel *et al.*, 2020). Each university develops in-house internal documents that detail and adapt the general requirements to the specifics of its work, such as the Regulations on the organisation of the educational process using distance learning technologies (Regulations). For instance, the Regulations on the Use of Distance Learning Technologies at Danylo Halytsky Lviv National Medical University (2020) regulate in detail the organisation of the educational process, including requirements for the development of distance learning courses, methods of assessing students’ knowledge and ensuring academic integrity. The document also defines the responsibilities of teachers and students to use digital platforms and tools for learning, as well as to ensure access to educational resources and support during distance learning.

Another example is the Regulations on the Organisation of the Educational Process Using Distance Learning Technologies at Zaporizhzhia National University (2020). The relevant document regulates that remote communication of participants in the educational process can be carried out using modern information and communication technologies, such as e-mail, messengers (Viber, Telegram), video conferencing (BigBlueButton Moodle, MS Teams, ZOOM, Google Meet), as well as forums, chats and audio conferences. They complement the main tools of the Electronic Learning Support System (ELS) of ZNU. The final semester control (tests, examinations, defence of course projects, internship reports) can also be conducted remotely through the Electronic Learning Support System of Zaporizhzhia National University or other means of synchronous or asynchronous communication, including video conferencing systems. Thus, the Regulation on the Organisation of Distance Learning not only regulates the current educational process but also supports the strategic development of the university in the field of innovation and digitalisation.

The EU plays an important role in shaping education and digitalisation policy. Although education policy remains the responsibility of individual member states, the EU actively supports the development of distance learning through various initiatives and programmes. The European Commission has implemented the Digital Education Action Plan (2021-2027) (2020), which aims to promote the digital transformation of education in Europe. The main objectives of the plan include raising the level of digital skills among EU citizens, providing access to digital tools and learning platforms, and supporting innovation in education through research and project funding.

The Horizon Europe (European Commission, n.d.) and Erasmus+ (National Erasmus+ Office in Ukraine, n.d.) programmes support the development of distance learning by funding innovative projects and cooperation between educational institutions. Horizon Europe (European Commission, n.d.) focuses on research and innovation, including projects in the field of digital education, while Erasmus+ (National Erasmus+ Office in Ukraine, n.d.) offers funding for exchanges and joint projects between universities, in the field of online learning. The General Data Protection Regulation (GDPR) (2016) significantly impacts distance learning. All educational platforms and institutions providing online education must comply with the GDPR requirements for the collection, processing and storage of personal data of students and teachers.

Each EU member state has its laws and regulations governing distance learning. In Germany, the system of legal regulation of distance learning is complex and includes several levels of implementation and control. At the federal level, the main legal act is Law for the Protection of Participants in Distance Learning (1976) which sets out general quality standards and requirements for distance education providers. The Law for the Protection of Participants in Distance Learning (1976) provides a clear legal framework for distance learning, covering all aspects of the process. This avoids the fragmentation often observed in the Ukrainian education system, regulation through orders and letters of the Ministry of Education and Science, where certain issues may be addressed in an unsystematic manner or remain unresolved. Article 1 of the Law for the Protection of Participants in Distance Learning (1976) sets out the main

provisions of the law and covers all forms of distance learning, establishing uniform rules for their operation, which in turn creates an integrated legal framework that ensures the sustainability and transparency of regulation.

The Law for the Protection of Participants in Distance Learning (1976) establishes requirements for transparency of information about educational programmes delivered in a distance format. These requirements include the obligation to inform students about all conditions of study, including fees, programme content and assessment methods. Article 3 of the Law for the Protection of Participants in Distance Learning (1976) obliges distance learning providers to provide detailed information about the programme, including all costs, which allows students to make informed decisions. Compared to Ukrainian practice, with gaps in the provision of full information about educational services, the Law for the Protection of Participants in Distance Learning (1976) provides greater transparency.

The Law for the Protection of Participants in Distance Learning (1976) establishes uniform quality standards for all forms of distance learning, which ensures the high quality of educational programmes. This contrasts with the Ukrainian system, where quality standards can vary depending on the institution or type of programme. Article 7 of the Law for the Protection of Participants in Distance Learning (1976) requires that all distance learning programmes be accredited and meet established quality standards. This ensures that all programmes meet the same requirements, which increases the credibility of distance education. Moreover, the Law for the Protection of Participants in Distance Learning (1976) provides for the establishment of independent bodies to control and monitor the quality of distance learning. This ensures ongoing oversight of compliance with standards and conditions of education, which is a more structured approach compared to the Ministry of Education and Science inspections. Article 5 of the Law for the Protection of Participants in Distance Learning (1976) creates the legal framework for the Federal Agency for Distance Learning, which is responsible for accrediting programmes and monitoring their quality. This ensures constant monitoring and accountability of educational programmes.

Hence, the Law for the Protection of Participants in Distance Learning (1976) offers a structured and comprehensive approach to the regulation of distance learning, ensuring transparency, uniform quality standards and ongoing monitoring. Implementation of a similar approach in Ukraine could significantly improve the legal regulation of distance education, increase its accessibility and quality, and increase students' trust in distance education programmes.

In Germany, each federal state has a certain degree of autonomy in regulating educational processes, including distance learning. In addition to the national legislation, the federal states set internal regulations and standards that complement the general requirements. These regulations cover additional requirements for the quality of learning, assessment and quality control procedures, as well as specific requirements for the content of distance learning courses. For example, the Act on Universities in Baden-Württemberg (2005) covers requirements for distance learning, including provisions on electronic resources and technologies to ensure the quality of distance learning. For example, paragraph 32, section 2 states that universities can deliver study programmes in an electronic format. In doing so,

they must ensure the quality of learning and the fulfilment of examination requirements. The Hessian Higher Education Act (2021) provides for specific requirements for distance learning, including technological infrastructure and student support. Paragraph 18, Section 3 states that universities may use e-learning platforms and digital media to support teaching and learning. In doing so, technical infrastructure and didactic support must be provided. The Law on Universities in the State of Berlin (2011) regulates distance learning, focusing on the quality of learning and student support through digital means. Thus, Paragraph 11, Section 4 states that universities must ensure that the same quality standards apply to distance learning or online teaching as to traditional teaching. Thus, the system of legislative regulation of distance learning in Germany is based on the interaction between the federal and regional levels of government, which allows for the effective functioning of this form of education in the country.

German experience in legislative regulation of distance education can significantly contribute to improving the situation in Ukraine. Germany has a developed system of legislation that regulates all aspects of distance learning, from setting quality standards and monitoring their compliance to accreditation and licensing of educational institutions (Grewenig *et al.*, 2021). The streamlining of the legislative environment through the introduction of a national law on distance learning is the first step that could be useful for Ukraine. Such a law could define the basic principles, responsibilities and rights of the participants in the process: students, teachers and educational institutions. Another step that can be taken from the German experience is the introduction of an accreditation and licensing system for educational institutions that provide distance learning courses. This contributes to a higher quality of education and trust in the institutions involved in this type of education. However, the quality control system for curricula and resources used in distance learning should be addressed. In Germany, such control is exercised through the establishment of learning standards and corresponding requirements for course content, which ensures that students receive a quality education.

In addition, it is necessary to implement initiatives to support digital infrastructure that facilitate access to distance learning for all social groups and regions of the country. This includes the development of broadband and supporting access to digital technologies for students and teachers (Zancajo *et al.*, 2022). Ukraine could also address the experience of digital data management and privacy, which is a critical aspect of distance learning. The use of German practices in the field of personal data protection can help avoid privacy violations and ensure data security in the learning process. In general, the implementation of German experience in the legislative regulation of distance education in Ukraine has the potential to improve the quality of education, ensure equal conditions for all participants in the educational process and promote the development of digital education in the country. Thus, education, especially in the context of rapid technological development and global challenges such as the COVID-19 pandemic, requires the adaptation and development of new forms of learning. One of these forms is distance learning, which is becoming increasingly popular and necessary. However, the existing legal framework governing distance higher education in Ukraine is not specific and outdated enough to fully cover all aspects of this form of

education in higher education. Therefore, there is an urgent need to develop and adopt a new law specifically dedicated to higher distance education.

Distance learning provides an opportunity to obtain higher education for a wide range of people, including those who live in remote regions, work or have mobility restrictions. The law on distance education should promote equal access to quality education for all citizens. The new law may create conditions for the development of lifelong learning, allowing students to improve their qualifications and acquire new skills at a time convenient for them. In addition, clear quality standards need to be established for distance learning to ensure that it is traditional face-to-face education. This includes requirements for curricula, teacher competencies, assessment methods and technical support. The law should include mechanisms to ensure academic integrity in distance learning, preventing cheating and plagiarism. An important issue is the rights and obligations of participants in the educational process it is necessary to define the rights of students in distance learning, including access to educational materials, participation in the educational process, technical support and the possibility of feedback from teachers. It is also necessary to protect the rights of teachers, including ensuring adequate working conditions, support in the use of technology and opportunities for professional development. The law should provide for financial support mechanisms for the development of distance education, including investments in technological infrastructure, learning resources and teacher training. It is necessary to ensure that students and teachers have access to the necessary technologies and resources for effective distance learning.

The adoption of the new Law on Higher Distance Education is a necessary step towards modernising the Ukrainian education system. This law will create favourable conditions for the development of distance education, ensure its quality and accessibility, protect the rights of students and teachers, and support the introduction of innovative technologies. It will also facilitate the international integration of Ukrainian higher education, increasing its competitiveness at the global level.

## Discussion

The use of the latest ICTs in education created a special form of learning known as distance learning. This learning model provides knowledge and competencies at a level no less high than in the traditional educational process. One of the key advantages of distance learning is its flexibility: students can study at a time and place convenient for them, choosing the intensity and pace of learning according to their personal needs and capabilities. In the global context, distance learning has become a widespread phenomenon. In many countries, this form of learning is being actively integrated into educational systems due to its ability to adapt to the requirements and challenges of the 21<sup>st</sup> century. However, not all countries have the same level of implementation of this form of learning.

V. Milićević *et al.* (2021) noted that in the Republic of Serbia, only 18 higher education institutions have accredited distance learning programmes. This situation indicates a certain lagging behind more developed countries, where distance learning has already become an integral part of the educational system. Despite the existence of a legal framework for the implementation of distance learning, Serbian

universities face numerous challenges in this process. The National Authority for Accreditation and Quality Assurance of Higher Education in Serbia confirms the existence of legal conditions for the accreditation of distance learning programmes. However, the real situation shows that the pace of implementation of this form of education remains slow. Similar to the situation in Serbia, Ukraine also faces challenges in the area of legislative regulation of distance learning. Although there is a legal framework for distance learning in Ukraine, it remains fragmented and incomplete. This study has identified the need to improve existing laws and introduce new regulations that would facilitate faster and more effective implementation of distance learning. The main difference between the interpretations and conclusions of this study and those of the researchers is determined by different contexts of national education systems. While both studies acknowledge the importance of legislative regulation of distance learning, the conclusions of the researchers addressed Serbia's lagging behind developed countries. The same study emphasises the need to adapt Ukrainian legislation to international standards and the realities of digital learning. This difference in interpretation is due to the peculiarities of national educational systems and the level of readiness to introduce new educational technologies.

It is worth agreeing with the results of study A. Naim and F. Alahmari (2020), emphasise the importance of implementing learning management systems such as the Blackboard platform at King Khalid University. They emphasise that for the successful integration of e-learning, clear standards of quality and compatibility with traditional teaching methods are necessary. This study also concludes that the development of such standards is critical to ensuring the effective functioning of distance education in Ukraine. P. Shi *et al.* (2021) emphasise that the COVID-19 pandemic has become a catalyst for intensifying legislative changes in the field of personal data protection in various countries, including the EU, the US, Japan, South Korea and China. They note that these countries have adapted their legislation to meet the new challenges posed by digital technologies and big data. Similar to the results of this study, the researchers' findings point to the need to adapt legislation to new digital realities. Both studies emphasise the critical importance of updating legislation to protect personal data, especially in the context of the proliferation of online education. However, this study focused on assessing Ukrainian legislation in the context of distance learning, while the researchers analyse more broadly the adaptation of legislation to new technological challenges in different countries around the world. However, it is worth agreeing with the conclusions of the researchers on the importance of adapting legislation to the new challenges of the digital world. The protection of personal data in the context of online education is extremely relevant, and the examples of countries that have already updated their laws serve as important guidelines for Ukraine (Mentukh & Shevchuk, 2023). The implementation of such strict standards as the GDPR in the EU could significantly improve the level of data protection in Ukraine.

The impact of digital technologies on privacy and personal data protection in online education is obvious. Considering the experience of other countries, it is important to emphasise that adapting laws to the realities of the digital age is key to ensuring data security in the educational environment. Regulation and privacy protection remain relevant

as technology continues to evolve and ensuring the security of personal data becomes an increasingly critical necessity. B. Williamson *et al.* (2020) argue that the process of datafication (turning information into data) is not the root cause of these problems, but rather it significantly exacerbates, reproduces and expands them. The impact of data in higher education is manifested through the infrastructure, software, measurement and algorithms that make up the digital architecture of universities. The COVID-19 pandemic, which has led to a massive shift to online learning due to university closures, has further increased this pressure. In the context of online higher education, these challenges and opportunities are particularly relevant. Universities can use data to improve the quality of education, provide an individualised approach to students, and increase accessibility (Chrysostomou, 2022). However, they must also be careful not to allow data to become a tool for increasing inequality or lowering academic standards. The balance between using data to improve the educational process and preserving the democratic values of universities is a major challenge for modern (post-2020) higher education in the digital era (Kuznietsova, 2024). Both this study and the conclusions of the researchers, noted that digitalisation and the use of data in higher education significantly exacerbate existing problems and challenges, especially in the context of the COVID-19 pandemic. Both studies recognise the need to improve infrastructure and software to ensure the efficiency and quality of distance learning. However, this study focuses more on the legislative aspects and the need to create and adapt a legal framework for regulating distance learning in Ukraine. At the same time, the researchers address the technical and algorithmic aspects of the impact of datafication on universities and the educational process in general. It is worth agreeing with the conclusion of the researchers on the importance of using data properly in higher education. Data can significantly improve the quality of learning and increase access to education. However, A. Kuznietsova (2024) do not focus enough on the need to update the legislative framework to ensure effective implementation and regulation of distance learning. This study emphasises the importance of creating comprehensive legislation to support online education, which is critical to ensure the quality and accessibility of learning.

The development of legislation regulating distance learning at universities is necessary to ensure the efficiency and quality of the educational process. Study Y. You (2020) analysed the impact of online learning on the development of competencies in students studying Choreography and Dance. In particular, the author explores how the online format affects the development of the necessary skills and knowledge that meet the requirements of professional practice in this field. The results show that distance learning in choreography has significant potential, opening up access to high-quality programmes for students from all over the world. This is particularly important for those who have not previously been able to access such programmes due to geographical or financial constraints. However, to fully utilise this potential, the quality assurance system for online education needs to be significantly improved. Online programmes should be carefully designed and adapted to the specifics of the distance format to ensure a high level of learning. This includes clearly defining the competencies to be delivered by the programme and establishing mechanisms for their effective monitoring. Government regulation plays a key

role in setting quality standards that all HEIs offering online courses must adhere to. A study by the researcher also confirms the importance of tailoring online programmes for specific disciplines, such as choreography, which demonstrates the need for clear competence definitions and quality control mechanisms. This underlines that the legal regulation should address the specifics of different programmes to ensure a high level of learning regardless of the format. Thus, the development of the legal and regulatory framework is critical to ensure that distance learning not only meets professional standards but also contributes to the quality development of students' competencies. Legislation should provide for the integration of clear quality standards, support for the adaptation of programmes to the online format, and the establishment of effective control mechanisms to ensure that the potential of distance learning in higher education is successfully realised.

A similar opinion was expressed by A.M. Al-Abdullatif and A.A. Gameil (2020), who found significant gaps in the knowledge of undergraduate students about the elements of digital citizenship. While some students demonstrate ethical practices in the use of digital resources and compliance with digital laws, their overall knowledge and understanding of digital citizenship are insufficient. The main problems include the inability to verify the reliability and authenticity of digital resources, as well as difficulties in interpreting laws governing the use of digital technologies. The study showed that most countries face significant challenges in the field of state regulation of distance education. Despite the growing popularity of online learning and its importance in the 21<sup>st</sup> century, existing legislation often fails to keep pace with technological change and is unable to fully ensure the appropriate level of quality and access to education. Thus, the development of legislation governing distance learning is critical to ensuring a high level of education adapted to digital challenges. This will help prepare students to successfully navigate the digital world and provide them with the necessary competencies for their professional activities.

### Conclusions

In the 21<sup>st</sup> century, the development of technology and globalisation are fundamentally changing traditional approaches to education. Online and distance learning are becoming increasingly popular forms of higher education, which requires adequate legislative regulation. The subject of this Article is the legislative regulation of online and distance learning in higher education institutions in Ukraine. The study aimed to identify the key aspects of the existing legal acts and compare them with international standards with the experience of Germany, to develop recommendations for improving the Ukrainian legal framework.

The study determined that the existing laws regulating distance and online learning are incomplete and outdated.

Ensuring the high quality of educational programmes in online and distance learning is a complex task that requires a careful legislative approach. In Ukraine, the legislation, in particular, the Law of Ukraine No. 2145-VIII "On Education" and the Law of Ukraine No. 1556-VII "On Higher Education", provides only general provisions on the possibility of using distance technologies in education, without establishing clear standards and quality control mechanisms specific to the distance format. The imperfection of regulation is also manifested in the lack of detailed requirements for the assessment, licensing and accreditation of distance learning programmes, which creates legal uncertainty and needs to be improved to properly adapt the educational process to the digital era. For example, the experience of Germany, where the Law for the Protection of Participants in Distance Learning is in force, shows how the integration of clear quality criteria and student rights protection can effectively contribute to raising the standards of distance education. German legislation provides for strict regulation of distance education programmes, including mandatory accreditation of courses and specific requirements for content, assessment and certification, which can serve as an example for improving the Ukrainian legal framework.

The findings indicate that Ukrainian legislation requires significant improvements to adequately respond to the challenges of distance learning. An analysis of German legislative practice shows how clearly defined requirements and standards can improve the quality and efficiency of online education. Ukraine could learn from the practice of mandatory accreditation of distance learning courses, the development of detailed standards for content and assessment, and the introduction of mechanisms to protect students' rights in distance learning. The significance of the results obtained are identified areas for improving Ukrainian legislation in the context of distance education. Establishing clear standards and quality control mechanisms will increase access to quality education and ensure more reliable protection of students' rights. This is especially important in the context of the growing role of digital technologies in the educational process.

Further research in this area should address the development of specific recommendations for the implementation of international standards in national legislation and study the effectiveness of existing mechanisms for quality control of distance learning. It is also necessary to study the issue of adapting legislation to the rapidly changing conditions of the digital society, in particular, considering aspects of personal data protection and intellectual property.

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### Conflict of interest

None.

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## Законодавче регулювання онлайн та дистанційного навчання в закладах вищої освіти

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**Анотація.** Онлайн-освіта стала вагомою частиною освітнього процесу в Україні, зокрема з початком пандемії COVID-19, а у 2022 році повномасштабною війною, що зумовлює актуальність дослідження нормативно-правової бази для забезпечення якості, доступності та інклюзивності дистанційної освіти. Метою дослідження було вивчення та оцінка законодавчого регулювання дистанційного навчання у закладах вищої освіти. Для досягнення мети були проаналізовані нормативно-правові документи, статистичні данні органів управління освітою в Україні. У ході дослідження було встановлено, що існуюче законодавство не повною мірою відповідає вимогам 21 ст. і потребує оновлення та інтеграції нових положень, які враховують специфіку цифрової освіти. Виявлено, що існуючі правові норми не гарантують рівний доступ до освітніх ресурсів для всіх студентів, особливо в умовах дистанційного навчання. Це підкреслює необхідність впровадження законодавчих змін, які забезпечать, щоб всі студенти мали рівні можливості доступу до необхідних матеріалів та технологій, незалежно від їх соціально-економічного статусу або місця проживання. Наприклад, в Законі України No. 2145-VIII «Про освіту» немає достатньо чітких положень, які б зобов'язували освітні установи забезпечувати технічну підтримку для дистанційного навчання. З аналізу Закону України No. 2145-VIII «Про освіту» вбачається, що нормативна база не включає адаптованих до дистанційного навчання стандартів якості. Результати дослідження підкреслюють необхідність розробки комплексного законодавства, яке б охоплювало всі аспекти дистанційного та онлайн-навчання. Це включає гармонізацію національних нормативних актів з міжнародними стандартами, впровадження гнучких механізмів контролю якості та підтримку рівного доступу до освітніх технологій. Наприклад, досвід Німеччини, з її регіональними законами, які деталізують загальні федеральні вимоги, може слугувати прикладом для розробки таких регуляцій в Україні. Практичне значення дослідження полягає у розробці рекомендацій для вдосконалення законодавчої бази онлайн та дистанційного навчання у вищих навчальних закладах

**Ключові слова:** інформаційне суспільство; правове забезпечення; е-освіта; цифрові освітні платформи; віртуальна реальність