

# E-law and E-justice: Analysis of the Switzerland Experience

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**Abstract.** This study deals with the analysis of implementation experience of e-law and e-justice in the Switzerland. The advantages and disadvantages of implementing e-law and e-justice in Switzerland are analyzed. The development of electronic services in the field of justice is one of the key components of public administration reform. Transfer justice services in an online format will increase the efficiency of professionals in the sector legislation and optimize business processes, such as: reducing time workflow, reducing time spent on processes that can be automated, ranking tasks by importance, debureaucratization, minimization of corruption risks, and other related benefits. Analysis of international experience will benefit for active implementation of e-legislation in Ukraine.

**Keywords:** E-law, E-justice, Experience, Switzerland, Implementation.

## 1 Introduction

The development of electronic services in the field of justice is one of the key components of public administration reform. Transfer justice services in an online format will increase the efficiency of professionals in the sector legislation and optimize business processes, such as:

- reducing time workflow,
- reducing time spent on processes that can be automated,
- ranking tasks by importance,
- reduce the financial cost of servicing the public,
- promoting debureaucratization,
- business development promotion,
- increasing the level of trust in legal bodies,
- rapid response to public problems and their solutions,
- minimization of corruption risks.

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Transformation of legislative services into electronic format is a sign of adaptation of state legislative processes to modern conditions of the industry, which will help improve the quality of service for citizens and industry professionals.

## 2 Related works

The concept of "e-law" was introduced by experts in the 90s. The analysis of the most important scientific researches is given in the table. The concept of e-law is analyzed by scientist in the following scientific papers:

**Table 1.** Analysis of research of e-law implementation

<b>Authors of work</b>	<b>Name of information resource, work</b>
David Lounady	<ul style="list-style-type: none"> <li>– E-Law: Legal Issues Affecting Computer Information Systems and Systems Operator Liability</li> <li>– E-Law 4: Computer Information Systems Law and System Operator Liability</li> </ul>
Matasar Richard and Rosemary Shiels	– Electronic Law Students: Repercussions on Legal Education
Widdison Robin	– Electronic Law Practice: an exercise in legal futurology
Widdison Robin and Francis Pritchard	– An Experiment with Electronic Law Tutorials'
Solove Daniel J.	– Reconstructing electronic surveillance law
Katsh M. Ethan	– The electronic media and the transformation of law
Carr James G. and Patricia L. Bellia	– The Law of Electronic Surveillance
Winn Jane K. and Benjamin Wright	– The law of electronic commerce
Creech Kenneth C.	– Electronic media law and regulation
Davidson Alan	– The law of electronic commerce
Sadler Roger L.	– Electronic media law
Cooper Corinne and Paul R. Rice	– Electronic Evidence: law and practice
Katsh M. Ethan	– Law in a digital world
Stokes Simon	– Digital copyright law and practice
Mazziotti Giuseppe	– EU digital copyright law and the end-user
Katsh Ethan	– Law in a digital world: Computer networks and cyberspace

Researchers also studied the introduction of e-justice in government agencies. The analysis of the most important scientific works is given in the table:

**Table 2.** Analysis of research on the implementation of e-justice

<b>Authors of work</b>	<b>Name of information resource, work</b>
Rosa João, Cláudio Teixeira and Joaquim Sousa Pinto	– Risk factors in e-justice information systems
Contini Francesco and Giovan Francesco Lanzara	– The circulation of agency in e-justice
Velicogna Marco, Antoine Errera and Stéphane Derlange	– e-Justice in France: the e-Barreau experience
Cerrillo Agustí, and Pere Fabra	– E-Justice Using Information Communication Technologies in the Court System
Camevali, Davide	– E-Justice and policies for risk management
Fabri, Marco	– E-justice in Finland and in Italy: Enabling versus Constraining Models – The Italian style of e-justice in a comparative perspective
Lupo Giampiero and Jane Bailey	– Designing and implementing e-Justice Systems: Some lessons learned from EU and Canadian Examples
Adler Michael and Paul Henman	– e-justice: A comparative study of computerization and procedural justice in social security
Velicogna Marco, Antoine Errera, and Stéphane Derlange	– Building e-justice in Continental Europe: the TéléRecours experience in France
Kushakova-Kostytska N.	– E-justice: Ukrainian realities and foreign experience – Development of electronic justice in Ukraine: problematic issues

When researching e-law and e-justice, it is worth paying attention to the digitalization of legislative activity (croudlaw). Croudlaw is a process when expert citizens can contribute with knowledge to proposing the contents and opportunities for writing new laws or monitoring existing ones to check effectiveness.

On the other hand, croudlaw is a new method of developing collective intelligence and the experience of people outside votes, including new ways of improving legislative processes.

## **2.1 The analysis of E-Law Advantages and Disadvantages**

One of the most important areas of e-democracy is the development of electronic services for the implementation of electronic legislation – e-law.

The introduction of e-law services in the legislative process in Ukraine and Switzerland has disadvantages and advantages.

Advantages of the e-law implementation:

- online consultations;
- timely informing employees of legislative institutions;
- saving working time of employees of legislative institutions;
- saving costs for printing documents and other services;
- electronic filling of legislative documents;
- holding an online meeting;
- introduction of electronic document management in institutions of the legislative sphere;
- electronic requests and provision of electronic copies;
- corporate e-mail.

Disadvantages of the e-law implementation:

- lack of computer skills at the level of qualified users of employees of legislative institutions;
- high risk of loss of legally important information,
- development, certification and commissioning of appropriate software;
- psychological barriers in society;
- necessary technical base of institutions of the legislative sphere.

### **Legal framework in the Switzerland**

A framework agreement on public legislation on e-government cooperation was signed in 2007, which regulates the responsibilities of e-government in Switzerland.

Since 2008, for the implementation of e-government in Switzerland at the institutional level all organs of government follow a common strategy. In 2008 came into force on the first framework agreement on cooperation in the field of e-government.

In addition, the agreement defines the process of organizing and forming a budget for the implementation of the e-Government Strategy of Switzerland. Agreements on cooperation in the field of e-government are described in the framework agreement in accordance with public law. In 2012, the version of the agreement was changed in certain parameters.

The current e-government strategy was signed by all authorized Switzerland organizations in 2019, which replaced the “e-government strategy in Switzerland in 2016”. According to the essence of the e-government strategy for 2020-2023, the state administration must actively manage the digital transformation of society in Switzerland. Switzerland has a well-established electronic interaction with the authorities. Public administrations should expand the scope of electronic law services. The public-law framework agreement on e-government cooperation regulates the powers of e-government in Switzerland.

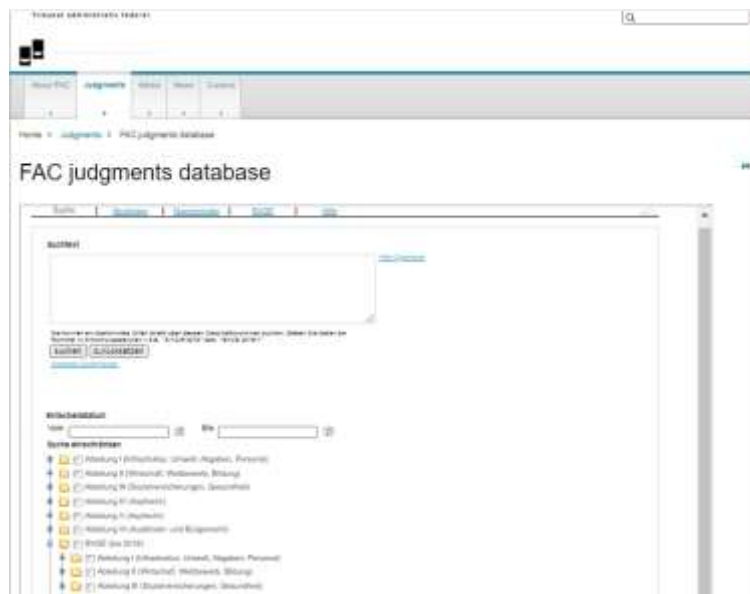
The main Switzerland government organizations have adopted an updated and adjusted version of the framework agreement for 2016-2019.

The judgments section of website of Bundesverwaltungsgericht in the Switzerland is shown in Figure 1.



**Fig. 1.** Judgments section of website of Bundesverwaltungsgericht in the Switzerland

FAC judgments database of website of Bundesverwaltungsgericht in the Switzerland is shown in Figure 2.



**Fig. 2.** FAC judgments database of website of Bundesverwaltungsgericht in the Switzerland

Electronic appeal submission form of Bundesverwaltungsgericht in the Switzerland is shown in Figure 3.

The screenshot shows the web interface for submitting an appeal to the Swiss Federal Administrative Court. At the top, there is a header with the court's name in German, French, and Italian, and the year 2020. Below this is a navigation bar with a search bar and a 'Suchen' button. The main content area is titled 'Neue Bundesverwaltungsgericht' and contains several input fields: 'Name', 'Vorname', 'Nachname', 'Strasse', 'Postleitzahl', 'Kanton', 'Telefon', and 'E-Mail'. There are also buttons for 'Weiter' and 'Rückgabe-Large'. A small note at the bottom of the form states: 'Eine formale Prüfung ist notwendig, um sicherzustellen, dass die Eingabe korrekt ist.'

**Fig. 3.** Electronic appeal submission form of Bundesverwaltungsgericht in the Switzerland

This service (Fig. 3) makes possible to submit appeal petitions electronically to the Federal Administrative Court. Deviating special legal provisions will remain reserved.

## 2.2 Rule of Law

The Switzerland federal government and administration are acting predictably. The division of the Switzerland into administrative regions, the tradition of decentralized local self-government and partially unprofessional system of government (police administration: reference to a non-professional army) provide a significant amount of freedom in the activities of the country public administration. Administrative culture provides efficiency, but reduces legal certainty.

According to international rankings the level of corruption in the Switzerland is rare. Country is constantly rated as successful countries in preventing corruption. In Switzerland the rule of law, public officials are paid high salaries and basis is a decentralized democracy with parties that effectively control and audit public officials. The opportunity for comprehensive informal networks, a reluctance to engage in close mutual supervision and encourages non-compliance with formal rules.

The significant overlap between economic and political elites, critics such as Transparency International's Switzerland office have pointed to processes in which politicians' economic interests can influence their decisions in parliament.

### 2.3 Analysis of sustainable governance indicators.

According survey of “Sustainable governance Indicators” (SGI) project [22] (<https://www.sgi-network.org>) the Switzerland government have strong steering capabilities (Fig. 4).

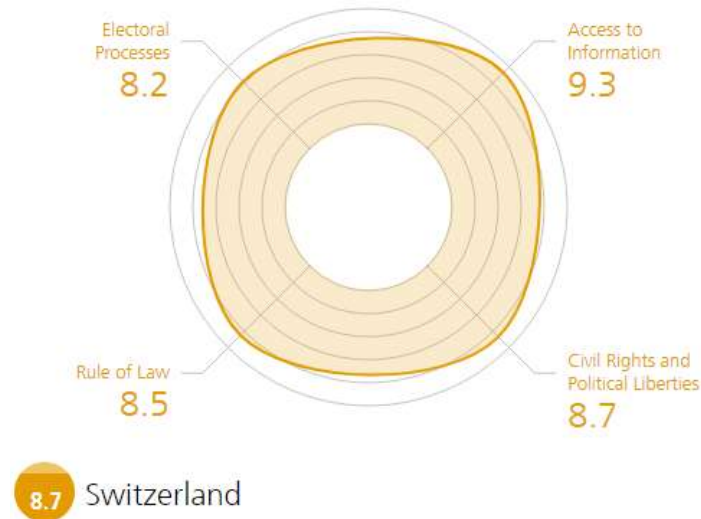


**Fig. 4.** Diagram of executive capacity of Switzerland government

Switzerland receives high overall performance ratings (9th rank) [22] in the Sustainable governance Indicators project. This indicator decreased by 0.1 points compared to the level of 2014.

Preliminary assessments are standard for most policy areas. Influential groups are involved in policy planning, and their influence is strengthened by the constant option of holding a public referendum. Most tax revenues are received by highly autonomous local administrations.

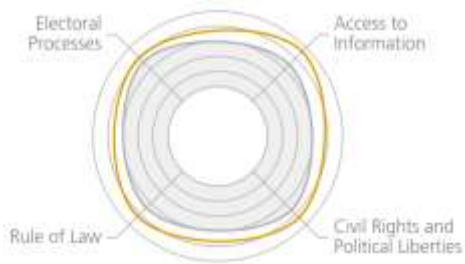
The cantonal implementation of regulations is pragmatic and often adapted to the problems of strong local interests. International coordination was problematic because it was seen as a violation of sovereignty. The position on the deviation of the EU from the preferred model of bilateral agreements in Switzerland emphasized flexibility in terms of internal adaptability.



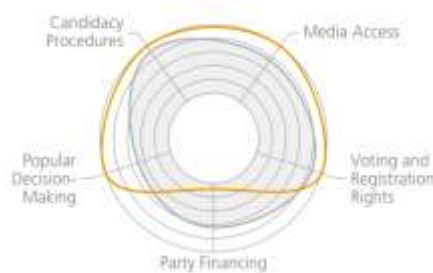
**Fig. 5.** Diagram of the level of democratic institutions and practices robust in Switzerland

Thanks to an energetic direct democratic system and a developed media and culture with open information, Switzerland ranks first (5th) [22] in the quality of democracy. This indicator did not change relative to the level of 2014.

The rights of voters are reliable, but a large population of foreign nationals is excluded. Political parties are not state-funded, and careful control over fundraising or party activities is insufficient. However, much of the party's payments come from parliamentary subsidies.



**Fig. 6.** Quality of Democracy (Switzerland vs EU)

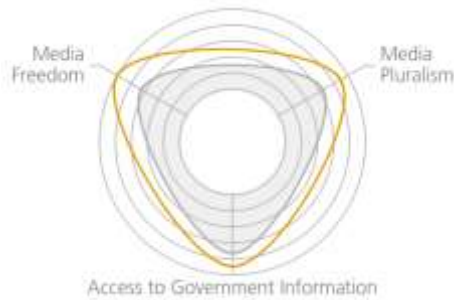


**Fig. 7.** Electoral Processes (Switzerland vs EU)

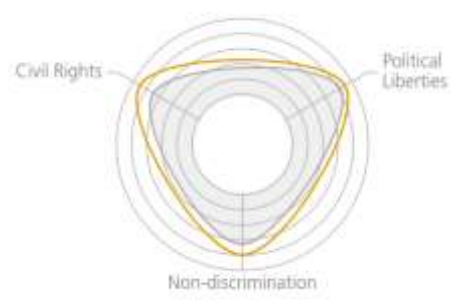
Straight democratic procedures are generally used. The results of this democratic procedure contradict human rights obligations or the treaty. The results of approximately current votes reflected problems with a lack of public knowledge and access to information. In 2018 the voters excluded suggestions that was eliminate by public media and offer state law precedence over international law [22].



In Switzerland, the media is free, but becoming more focused. Laws on access to information are strong. Civil rights are protected, but there are tensions between EU rules and Switzerland authority. Corruption is occasional [22].



**Fig. 8.** Access to Information (Switzerland vs EU)



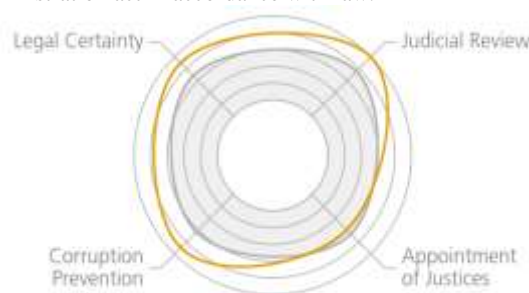
**Fig. 9.** Civil Rights and Political Liberties (Switzerland vs EU)

### *Legal Certainty*

The predictability of the Switzerland Federal Government and Administration is partly reduced by pragmatic administrative culture at local levels. The government and administration act as expected, based accordance with law. Legal norms are consistent and transparent, ensuring legal certainty.

### *Judicial Review*

The Switzerland judicial system is governed by professional rules without political interference. The judicial system is based on professional training. Leading and professionally trained judges work locally. The decisions of judges are subject to review in higher professional courts. Independent courts effectively review the actions of the executive and ensure that the government and administration act in accordance with law.



**Fig. 10.** Rule of Law (Switzerland vs EU)

### *Appointment of Justices*

Judges of the Federal Supreme Court are elected for a term of six years at a joint sitting of both houses of parliament. Judges do not have special majority requirements.

### *Corruption Prevention*

Corruption in Switzerland is rare in international rankings. Switzerland is consistently rated as one of the most successful countries in preventing corruption. Legal and public integrity mechanisms prevent community organization holders from abusing positions.

## **3 Conclusions**

Analysis of international experience will benefit for active implementation of e-legislation in Ukraine. The purpose of this article is to analyze the experience of e-law and e-justice implementation in Switzerland. Ukraine has already introduced security and court services, thanks to which you can get online certificates of no criminal record, no corruption offenses, and apply to the court. So, from the beginning of start 133,7 thousand people used the service of registration of the certificate of no criminal record online. As we can see, Ukrainian e-legislation has a positive experience in implementing this service. E-law and e-justice services include digital signature, electronic trust services in legislation, electronic evidence, electronic archive and electronic document management in legislative institutions, electronic court, etc.

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