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## Digitization of the construction process in Polish and Georgian Law\*

**Keywords:** construction law, digitization, digitalization of administrative processes, construction administrative bodies, administrative decision

**Summary.** This article concerns the introduction of digitization in the Polish and Georgian administrative procedure, based on the example of the construction process. A digital e-construction platform was introduced to streamline the administration process and contribute to the efficiency of construction procedures, simplifying the submission of applications by investors. However, this is the beginning of the reform of the construction law and spatial planning aimed at streamlining administrative procedures. It is also the first step for the legislator to consider introducing artificial intelligence in the issuance of certain administrative acts in the field of spatial planning and development and construction law.

The e-construction platform has been operating in Poland for a year and concerns investments in the field of construction, both private and public investments. Against this background, it should be considered how the legislator should adapt the legal regulations to the actual electronisation of the administrative procedure on the example of proceedings in cases of simple construction and demolition notifications, notifications, as well as more complicated procedures aimed at issuing permits.

### Cyfryzacja procesu budowlanego w prawie polskim i gruzińskim

**Słowa kluczowe:** prawo budowlane, dygitalizacja, dygitalizacja procedury administracyjnej, administracja budowlana, decyzja administracyjna.

**Streszczenie.** Artykuł dotyczy wprowadzania w polskiej i gruzińskiej procedurze administracyjnej cyfryzacji, na przykładzie procesu budowlanego. Usprawnieniu procesu administrowania i przysłużeniu się efektywności postępowań budowlanych wprowadzona została cyfrowa platforma e-budownictwo, upraszczająca składanie wniosków przez inwestorów. To jest jednak początek reformy prawa budowlanego oraz planowania przestrzennego zmierzających w kierunku usprawnienia procedur administracyjnych. Jest to także pierwszy krok do być może rozważania przez ustawodawcę wprowadzenia sztucznej inteligencji w wydawaniu niektórych aktów administracyjnych na gruncie planowania i zagospodarowania przestrzennego oraz prawa budowlanego. Platforma e-budownictwo

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działa w Polsce od roku dotyczy inwestycji w zakresie budownictwa, zarówno inwestycji prywatnych jak i publicznych. Na tym tle należy rozważyć w jaki sposób ustawodawca powinien dostosować regulacje prawne do faktycznej elektronizacji procedury administracyjnej na przykładzie postępowań w sprawach prostych zgłoszeń budowlanych, rozbiórkowych, zawiadomień, jak i bardziej skomplikowanych postępowań zmierzających do wydania pozwoleń budowlanych.

## 1. Introduction

The importance of new information and communication technologies and digital platforms has been used in engineering and industry for years, but so far, it has not been widely discussed in the scope of activities of public administration, government administration and local government administration in Polish law. So far, relatively little has been written about the importance of digitization for the functioning and organization of the administration. This article tries to remedy the situation and attempts to highlight the development of digitization on the example of investment and construction proceedings. The example of the introduction of the e-construction platform shows the growing importance of digitization for public services and the new flows of information provided by these technologies. New information and communication technologies, in particular modern platforms communicating an entity with an authority, create conditions thanks to which the public administration gains both efficiency and effectiveness. A new public administration is emerging, and the new information flows and the computer networks that facilitate and mediate them are fundamental to this innovation process.

For digital administration to function well, also society must be characterized by developing convergence among a number of socio-economic and technological trends. As the usability of the telephone grows and costs decrease, as more and more subscribers connect to the network, so does computers. Changes in computing and telecommunications technologies have led to a situation where it is now relatively easy to network computers and thus obtain economies of scale (by dispersing the installed base in different locations and capturing information from them) and scope benefits (through the use of technologies and resources). Informative for more uses). Indeed, and in addition, by exploiting more bandwidth, computer networks that can simultaneously transmit both voice traffic and data (as well as video and graphics) are increasingly being deployed by businesses and organizations, and further economies of scale are being made available. Universal and fast access to the network is becoming a prerequisite for the implementation of the e-government concept<sup>1</sup>.

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<sup>1</sup> See A. Pawłowska, *Informatyzacja w administracji publicznej, od wirtualnej biurokracji do elektronicznych rządów*, „Służba Cywilna” 2003/2004, no. 7.

The provisions of the Act of July 7, 1994 – Construction Law the amendment to before the Act of December 10, 2020, amending certain supporting the development of housing Acts<sup>2</sup> did not provide for no possibility of submitting documents to architectural and construction administration authorities and construction supervision authorities in electronic form (the only exception was Article 31 sec. 2a of the Construction Law Act<sup>3</sup>, which provided for a model declaration for the demolition of a building constructed in the form of an electronic document within the meaning of the act of building law on the computerization of the activities of entities performing public tasks /Journal of Laws of 2020, item 346, as amended/). Thus, a citizen who wanted to perform any action under the Construction Law had to submit a paper-based application and for this purpose must go to the architectural and construction administration authority or the construction supervision authority<sup>4</sup>. This form of contact of a citizen with a public administration body was made difficult, in particular, by the introduction of an epidemic threat and epidemic state on the territory of the Republic of Poland, due to the need to prevent the spread of COVID-19 disease.

The introduction of the state of epidemic threat and state of the epidemic on the territory of the Republic of Poland not only made it difficult for a citizen to contact public administration bodies, but also made it difficult or even impossible to submit applications (*e.g.* for a building permit) or notifications (*e.g.* for construction or construction works) in paper form, due to the circumstances related to the need to limit the spread of COVID-19 disease. It was also difficult to send such a document at the post office. Pursuant to the amending certain acts supporting the development of housing, the Construction Law<sup>5</sup> was amended in the scope of the possibility of submitting applications in the form of an electronic document via e-mail address in the following matters<sup>6</sup>: authorization to grant consent to a derogation (Article 9, sections 3a-3cp.b.), notification of construction or other construction works (Article 30, section 4dp.b.), demolition permit

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<sup>2</sup> Journal of Laws of 2021, item 11.

<sup>3</sup> Constructing Act of 7 July 1994 (Journal of Laws of 2021, item 2351, as amended.), hereinafter referred to as: “p.b.”

<sup>4</sup> More broadly, the justification to the act amending certain acts supporting the development of housing, LEX / *el.*

<sup>5</sup> The Act of 10 December 2020 amending certain acts supporting the development of housing (Journal of Laws of 2021, item 11), which will become effective on July 1, 2021.

<sup>6</sup> Since February this year, 13 e-forms can be submitted via the e-construction platform, run by the Main Office of Construction Supervision, such as: notification of construction works or a permit for demolition. From July 2021, another 8 forms were introduced, including an application for a building permit with an attached plot or land development project and an architectural and construction project, an application for a derogation from technical and construction regulations, or an application for an occupancy permit. This means that from July 1, all construction procedures will be conducted in electronic form.

application (Article 30b, section 4p.b.), demolition notification (Article 31, section 1d), application for a permit for construction (Article 33 section, 2cp.b.), attaching a construction design, including a plot or land development design, an architectural and construction design and a technical design (Article 34, section 3fp.b.), issuing a separate decision approving a plot or land development design or architectural and construction design, change of a building permit (Article 36a, section 1bp.b.), issuance of a building permit for a temporary building object (Article 37a, section 1ap.b.) a decision on a building permit, 2) a decision on a permit to resume construction works, referred to in Article 51 sec. 4p.b.) the rights and obligations arising from the notification, against which the authority has not raised an objection (Article 40, section 5p.b.), notifying the construction supervision authority about the intended date of commencement of construction works (Article 41, section 4bp.b.), for a decision on the necessity entry to an adjacent building, premises or adjacent property (Article 47, section 2ap.b.), to initiate a simplified legalization procedure (Article 53a, section 3p.b.), notice of completion of construction shall be made and an application for an occupancy permit (article 57, section 3ap.b.), change in the manner of use of the building object or its part (Article 71, section 2bp.b.). In accordance with statutory provisions, rules containing the content of electronic forms must apply<sup>7</sup>.

The legislative change and new technical solutions made it possible to submit applications *via* the Internet in an easy way through the government website, where the generator of electronic applications created at the Main Office of Construction Supervision is made available.

It can be argued that the electronisation of administration is currently one of the key technological processes in the modern world. It is based on the automation of information processing, which, as a result of numerous improvements and facilitations, lead to the achievement of benefits in various areas of life. A natural consequence of the digital development of society was the entry of computerization into legal solutions, including the law of spatial planning and construction law. This is happening in Poland as well as in other developing countries, young democracies, including Georgia.

An element of electronisation is the simplification of application procedures for investors. Electronic proceeding means converting information from analogue to digital form. In fact, submission of a document – *e.g.*, an administrative decision – digitization consists in scanning a document issued in a traditional paper form and saved on an IT data carrier. In such a situation, the so-called digital

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<sup>7</sup> For example, the ordinance of the Minister of Development, Labor and Technology of February 26, 2021, on the specimen of the application form for a building permit (Journal of Laws of 2021, item 410).

mapping, consisting in the transformation of a non-electronic document into an electronic document.

This article uses the dogmatic-legal and comparative-law research methods.

## 2. Legal issues of digitization of administration

The issue of legal regulation of the use of new technologies in administrative law is extremely important. In the future, the legislator would like to create, in almost every regulation of administrative matters, digital IT platforms for communication between the administration and the units used to settle matters. Although it does not change the model of applying the law by the administration, the issue of e-administration<sup>8</sup> may be treated as a specific scientific problem.

In the subjective sphere, the electronic operation of the body gives to public administration body equipped with electronic tools with which it interacts with recipients of public services. Electronic administration may enter into relations both in external relations with a citizen, entrepreneur, and in internal relations between the administration bodies themselves. In the latter case, there is a very important issue of the digitalization of cooperation between administrative bodies in order to thoroughly explain the factual and legal status of the case.

A. Haręża even points out that the analysis of communication models conducted by administrative bodies makes it necessary to distinguish the concept of the information relationship, creating a new type of administrative-legal relationship<sup>9</sup>. However, it is impossible to agree with this position because the type of communication is only a technical issue and ancillary to the type of administrative-legal relationship. However, electronic communication is a way to establish an administrative-legal relationship<sup>10</sup>. In addition to the traditional methods of establishing an administrative and legal relationship, there is also the possibility of initiating it *via* electronic communication, using networks and informatic technologies systems. In both cases, the entities of the administrative-legal relationship will be the same, as will its character and characteristics. For example, an investor submitting an application for project approval and issuing a building permit, regardless of whether he submits an application in paper form or on an electronic form via the e-construction platform, has the same scope of rights and obligations, and the authority has the same competences, including that he may use information technology in relation to the party without fear of violating his rights and procedural guarantees.

<sup>8</sup> Sometimes also called: e-government, e-state.

<sup>9</sup> A. Haręża, *Wprowadzenie do problematyki elektronicznej administracji publicznej*, "Prawo Mediów Elektronicznych" 2011, no. 1, p. 7.

<sup>10</sup> See also: I. Lipowicz, *Administracyjnoprawne zagadnienia informatyki*, Katowice 1984, pp. 116-143.

There is an administrative system between public entities operating and using teleinformatic systems. M. Błażewski distinguishes two types of administrative systems. They are: 1) running separate public information and communication systems with an interoperability function; 2) the use of public teleinformatic systems operated by other public entities<sup>11</sup>.

The first type of administrative system occurs when two or more public entities run a separate public teleinformatic system. It should be emphasized that each of these entities has a similar status, each of which simultaneously runs and uses its public teleinformatic system. These systems should meet the technical requirements enabling mutual cooperation. Public entities may or are required to run public informatic systems on the basis of detailed legal provisions regulating the manner of performing a public task.

The second type of administrative system takes place when one or more public entities use a teleinformatic system operated by another public entity. It should be emphasized that the status of these public entities is differentiated, one of which should run a public IT system, and other entities only use this system. This system should meet the technical requirements, the subject of which is, inter alia, the way the system is used by other public entities. The central public IT system is the Electronic Platform of Public Administration Services (e-PUAP) as well as the system for sending applications (e-construction)

Public administration is an information-intensive industry. It is, as the quotation above suggests, one within which the adoption of the technologies which convey information might be expected to be high. Informatic technologies are being regarded in government at all levels as increasingly significant, and that they are being more widely adopted as a consequence.

The first is the transition from centralized computing based on mainframe data processing to distributed networked systems. The second clear trend is the movement away from computing as part of the province of finance departments and towards networked information systems in all areas of government. Thirdly, there is much evidence which suggests considerable and recent increases in user skills in public administration, and of those increases being set to continue. Finally, expenditure patterns on informatic technologies adoption also indicate the rapid and large-scale growth of the technologies in government<sup>12</sup>.

A good illustration of the growing significance of computer networking in government, the incipient importance of informatic technologies for a wide range of

<sup>11</sup> M. Błażewski, *Czynniki koniecznościowe współkształtujące układ pomiędzy organami administracji publicznej w związku z prowadzeniem i stosowaniem publicznych systemów teleinformatycznych*, red. J. Korczak, *Układ administracji publicznej*, Wrocław 2020, p. 127.

<sup>12</sup> J.A. Taylor, H. Williams, *Public administration and the informations polity*, "Public Administration" 1991, vol. 69, is. 2, pp. 175-176.

government departments, and the expansion of user skills is provided by the development digitalization platform for example: “e-construction platform” ([www.e-budownictwo-gunb.gov.pl](http://www.e-budownictwo-gunb.gov.pl)).

As part of the investment and construction processes, the target implementation of the spatial information platform will be particularly important, so that the planning and architectural and construction administration authorities can cooperate within the framework of internal relations in the process of issuing investment decisions, occupancy permit for the building object. In such a situation, the body conducting administrative proceedings by means of electronic communication will have access to all the most recent decisions of subsidiary bodies, to dependent decisions issued in separate proceedings, which will ensure faster implementation of citizens’ subjective rights by using their resources.

An effective e-administration system requires the creation of electronic databases with data resources processed by administrative bodies (*i.e.*, databases, registers, censuses). However, the task of electronic administration is not only the management and development of electronic databases<sup>13</sup>. Its functions cannot be limited only to the issue of administration by networks, which admittedly provide new ways of carrying out tasks by the administration with the participation of private partners and non-governmental organizations. Electronic public administration is to create a digital platform connecting authorities with entities that are recipients of public services, accelerating economic processes, simplifying administrative procedures<sup>14</sup>, while reducing operating costs, and consequently aims to lead to the issuance of automated simple administrative acts.

### 3. Party to the proceeding in the electronisation of the administrative procedure in Poland

The procedure for issuing and building permits is a type of jurisdictional procedure for issuance. The inspection is used in the management of the general administrative management code<sup>15</sup> and the administrator of the Construction Law Act.

A specific breakthrough and opening of procedures, including construction, to electronisation was the introduction in 2010 to Article 14 of the Code of Administrative Procedure electronic form to handle the case, and then, during the amendment in 2018, to clarify this principle in the context of communication

<sup>13</sup> J. Wróblewski, *Informatyka prawnicza możliwości wykorzystania cybernetyki*, “Państwo i Prawo” 1971, no. 3-4.

<sup>14</sup> Z. Stempnakowski, *Administracja elektroniczna*, [in:] A. Szewczyk (ed.), *Spoleczeństwo informacyjne – problemy rozwoju*, Warszawa 2007, p. 58.

<sup>15</sup> The Code of Administrative Procedure of 14 June 1960 (consolidated text: Journal of Laws of 2021, item 735, as amended.), hereinafter referred to as: “k.p.a”.



with the party to the proceedings. In turn, the amendment made by the Act of November 18, 2020, on electronic deliveries<sup>16</sup>, which entered into force on July 1, 2021, significantly expanded the electronic procedure. The cited regulation, pursuant to Article 14 § 1a to 1d allows the use of an electronic document in proceedings and identifies it with a paper document. It should be emphasized that the signing of electronic letters takes place in one of the forms indicated by the Act, which include: a) a qualified electronic signature, which is still not very common because it involves the need to conclude a paid contract with the service provider, b) a trusted profile, which is a frequent and willingly used method of signing documents, and its obtaining is free of charge.

As in the case of submitting a digital tax return, the parties to the proceedings, by sending an electronic application together with documentation, *e.g.*, design documentation attached to the digital application, by signing it, confirm the content and correctness of the digital application and the documents sent digitally. This is even a kind of novelty, for example in German law only in 2020 individual federal states implement digital construction proceedings. The following countries are represented in the committee dealing with the implementation of new technologies in investment and construction proceedings: Saxony-Anhalt, Rhineland-Palatinate, Saxony, Schleswig-Holstein, Saarland, Hamburg, Baden-Württemberg, North Rhine-Westphalia and Bavaria, Mecklenburg- Front Pomerania<sup>17</sup>. The latter country was the first to implement the digitalization of submitted building permit applications. In Germany, about 220,000 are issued every year, the need to print application documents on paper, projects resulted in a significant use of paper. Electronic communication between the authorities and the investor is also a time and cost saving.

The administration is to provide system services using digital e-administration platforms. Each application submitted electronically is sent by e-PUAP, and the administration authority can print it, the sent documents are stored in the so-called in the cloud until the matter is settled in current files, and then they will be archived. To ensure security, each sent document should also be copied for backup in the event of a failure of the IT system. The administration authority communicates and exchanges documents with the party via the Electronic Inbox<sup>18</sup>.

The authority, on the other hand, issues a decision and signs documents electronically using a qualified electronic seal with an indication in the content of the

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<sup>16</sup> Journal of Laws of 2020, item 2320.

<sup>17</sup> Digital building permits, <https://www-digitale-baugenehmigung-de/> (accessed on 20.02.2022), more about digitization B. Sujecki, *Das elektronische Mahnverfahren*, Tübingen 2008, pp. 122–128.

<sup>18</sup> M. Matuszewska-Maróń, K. Oskary, *Platforma ePUAP krok po kroku [ePUAP platform step by step]*, "E-mentor" 2012, no. 3, p.17.



letter of the person who does it. The decision is sent by e-PUAP to the address indicated by the website.

For this purpose, the authority is required to obtain the data necessary to settle the administrative matter contained in individual databases or registers and public records, as well as an electronic application with electronic attachments sent *via* a digital platform. However, this does not cause technical or legal problems, because legal norms provide individual public entities with appropriate competences. The computerization of administrative proceedings also involves the implementation of modern data processing methods using software and computer devices. It is worth pointing out that the broader area of using technological solutions for the implementation of public tasks and services by the administration includes the concept of computerization. This term should be understood as the improvement of the quality of processes correlated with the use of technological progress and the use of computers, especially with an important organizational aspect. It includes the concept of computerization and is associated with the best possible use of digital resources, software, and computer devices. Informatization is an expression of effective, integrated, and comprehensive public management. It brings with it the improvement of the functioning of public entities, increasing their efficiency and potential possibilities<sup>19</sup>.

Although currently all communication between the architectural and construction administration authority and the party may be carried out by means of electronic communication, the traditional procedure was retained at the same time. A drawback of the legal regulation, however, is the lack of an obligation on the part of the authorities to make the case files available in electronic form. The provision of Article 73 § 3 of the Code of Civil Procedure a public administration body may provide a party with an access to case files in its ICT system, after the party is authenticated in the manner specified in art. 20a paragraph 1 or 2 of the Act of February 17, 2005, on the computerization of the activities of entities performing public tasks. Unfortunately, this is an optional option, depending on the will and technical capabilities of the public administration body. The modification of the regulation was introduced by the provision of Article 15zzzzzn point 2 of the Act of March 2, 2020, on special solutions related to the prevention, counteracting, and combating COVID-19, other infectious diseases and crisis situations caused by them<sup>20</sup>; however, it is a temporary regulation related to the occurrence of a pandemic. It gives the authority conducting the proceedings the possibility of making the case files available to the party, in whole or in part, by means of elec-

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<sup>19</sup> A. Haręza, *Wprowadzenie do problematyki elektronicznej administracji publicznej*, "Prawo Mediów Elektronicznych" 2011, no. 1, p. 7.

<sup>20</sup> Consolidated text: Journal of Laws of 2021, item 2095.

tronic communication. Therefore, this regulation is wider than Article 73 of the Code of Administrative Procedure the authority may use software tools enabling individual remote communication with the use of data transmission between ICT systems, in particular electronic mail. The difference is that pursuant to Article 73 § 3 of the Code of Civil Procedure could make the case files available in his IT system, but now he can do it by means of electronic communication by sending electronic (or reduced to electronic form) case files or individual documents constituting them to the address indicated in the contact details register 14 or another electronic address indicated by page<sup>21</sup>. Moreover, the legislator resigned from the requirement of page authentication. It should be postulated that such a regulation should be permanently introduced into the administrative procedure.

Undoubtedly, enabling the parties to the investment and construction proceedings to access the case file electronically each time would make the administrative procedure more transparent and accessible. Investors could forecast the time needed to settle the case and submit the necessary evidence. A good solution could be to use an analogous system at the disposal of common courts, the so-called court information portal. The party then has electronic access to the document before it is delivered to it. This improves communication and sending documents in the case.

You can still submit any applications in traditional form and communicate with the authorities in writing using traditional mail. The legislator could not introduce full digitization because it could lead to social exclusion of people who do not have access to the Internet or do not use digital devices. The legislator must pay special attention to ensuring that no social group is digitally excluded from participation in the administrative procedure due to the lack of access to electronic communications.

It should be noted that at the current stage of legislative and technical changes, the possibility of the electronisation of the appeal procedure in a construction case, in the form of sending appeals against decisions via the e-construction electronic platform, is not yet provided. However, this portal will be gradually expanded with new technical possibilities, and therefore, in the future, the appeal proceedings will also be conducted in full electronic form.

#### **4. Electronisation of the administrative procedure in Georgia**

Georgia is among the countries, where, despite high human capital, progress has stalled somewhat due to relatively less developed telecommunications infrastructure. The percentage of Internet users in Georgia is low compared to other coun-

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<sup>21</sup> E. Szewczyk, *Modyfikacje postępowań administracyjnych prowadzonych w okresie stanu zagrożenia epidemicznego lub stanu epidemii*, "Samorząd Terytorialny" 2020, no. 6, p. 24.

tries in the region. According to this component, only about 63% of the population in Georgia use the Internet<sup>22</sup>.

Georgia, however, is aware of the need to develop e-administration, including expanding the provision of digital services in administrative and construction procedures, increasing the institutional capacity to provide online services, or opening access to digital technologies and capabilities for society. Georgia follows international trends in having a common open data policy and regulations, national data strategy, data ecosystem and data technology.

The e-government survey is conducted every two years by the United Nations, Economic and Social Affairs Department and the Department of Public Institutions and Digital Government (DPIDG). Two Indexes, ranking 193 countries, are published as a result of the Survey: 1) E-Government Development Index and 2) E-Participation Index. According to the 2020 assessment, Georgia's e-government score stands at 0.72, which puts it at the 65th place among 193 countries. In terms of e-participation, Georgia improved its performance by 0.02 points and its position in the ranking by 7 places<sup>23</sup>.

In the General administrative code of Georgia in Article 51, paragraph 3 titled: "The form of individual administrative acts" indicates that an individual administrative and legal act may be issued by automated management means must meet the requirements established under the Georgian Act on Electronic Documents and Trusted Electronic Services. This legislation Act treated about legal grounds for using electronic documents, electronic signatures, and electronic trust services.

If a natural person or a legal entity under private law chooses an electronic form to communicate with administrative bodies and the submitted document requires a signature and/or a seal, it shall be mandatory to put a qualified electronic signature and/or a qualified electronic seal on the document. This procedure shall not apply to cases when the Government of Georgia does not require a signature and/or a seal on the document (Article 3 paragraph 3 Georgian Act on Electronic Documents and Trusted Electronic Services). An administrative body shall be obligated to put a qualified electronic signature and/or a qualified electronic seal on an electronic document. Putting a qualified electronic stamp on a document by an administrative body shall suffice. Use of qualified electronic signatures shall not be mandatory within the structural units/divisions of administrative bodies and territorial bodies and/or during relations within their scopes. In this case, any used

<sup>22</sup> <https://idfi.ge/en/e-governance-e-participation-georgia-index-2020#:~:text=In%20terms%20of%20E-Government%20Index%20Georgia%20scored%200.82%2C,th%20place%20in%20both%20rankings%20back%20in%202018> (accessed on 30.09.2022).

<sup>23</sup> Georgia in the UN. E-government survey. Review of the 2020 Results, July 2020, p. 16. [https://idfi.ge/public/upload/GG/E-Governance\\_E-Participation-ENG-final.pdf](https://idfi.ge/public/upload/GG/E-Governance_E-Participation-ENG-final.pdf) (accessed on 20.09.2022).

electronic documents and electronic signatures shall accordingly have the same legal force as tangible documents and handwritten signatures. It shall be impermissible to refuse electronic documents during administrative proceedings and court proceedings only because they are presented in an electronic form, however, this fact shall not exclude the refusal to accept an electronic document for the relevant proceedings, if it does not meet the rules established for the said proceedings.

It shall be impermissible to refuse to grant evidentiary effect to electronic signatures and/or electronic seals during administrative proceedings and court proceedings, only because they do not meet the requirements established by this Law for qualified electronic signatures and/or qualified electronic seals. The above-described rules apply to all administrative proceedings<sup>24</sup>, also in construction matters. There is an online platform for dealing with administrative matters in Georgia, "my.gov.ge", through which you can submit applications for the initiation of proceedings in construction and other administrative matters<sup>25</sup>.

## **5. The administration body in the face of the digitalization of the construction process in Poland and in Georgia**

In both countries, *i.e.*, in Poland and Georgia, administrative bodies conduct proceedings regarding construction permits, applications for construction, demolition, and use permits in traditional and electronic paper form.

There are two types of architectural and construction administration and construction supervision authorities in the construction process in Poland. The architectural and construction administration authorities are: starost, voivode, as well as the Chief Inspector of Building Supervision. Article 82, section 2p.b. reserves the powers of the first instance architectural and construction administration authority for the starost. These are competences in the field of government administration. As a consequence, the voivode is the second instance in matters he / she decides. The competences of the starost include the control function under Article 81p.b. issuing all decisions provided for by the act (Article 83, section 1k.p.a. of the reserves given decisions to the competence of the powiat building supervision inspector, and Article 82, section 3 k.p.a. Construction Law Act reserves issuing decisions in the first instance for the voivode). The presumption of the starost's competence is specified in art. 82 sec. 1 of the construction law. First of all, these will be decisions on building permits, demolition permits, decisions on the transfer of a building

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<sup>24</sup> W. Loria, *Gruzinski administrativnyj porjadok*, Tbilisi 2018, p. 102.

<sup>25</sup> K. Kalichava, *Permission Control of Contraction Activity (need of reform and perspectives)*, "Journal of Administrative Law" 2016, no. 2, p. 98.

permit, decisions authorizing entry to the adjacent property. A change in the use of a building object should also be notified to the starost<sup>26</sup>.

The construction supervision authority is most often the powiat construction supervision inspector, and in some cases the voivode and voivodship construction supervision inspector will be competent. These authorities deal with matters of facilities and construction works.

The digitization of the construction process is associated with the introduction of applications along with project documentation via the e-construction platform, which is a big challenge, especially for starosts. This is related to the launch of new services by the government administration, but also to equipping architectural and construction administration bodies with equipment of appropriate performance, enabling the reading of construction projects. Although the authorities received instructions and guidelines, they did not receive funds for the adaptation of local informatic infrastructure from government funds, the burden of financing was thus shifted to powiats and cities with powiat rights. It is also necessary to secure the services of the so-called helpdesk by the Main Office of Building Supervision. Such services are to support the employees of authorities in the field of technical issues of processing digitally submitted applications, in particular their reading, back-up, and archiving. Problems also appear in connection with the appeal stages and administrative court control in proceedings, *e.g.*, for project approval and granting a building permit. The body of the second instance, ruling on appeal, should be able to amend the approved project. It is also important in what form the project documentation is to be sent to the court, whether as part of access data to databases or in a printed version. As a result, the regulations, which entered into force partially in February and July 2021, are still functioning flawed, moreover, they have not been fully checked due to the ongoing proceedings.

In practice, many employees of the authority have not dealt with documents, especially projects in a “3D version” in digital form, so far, which may initially extend the time of settling the case. The system will only work properly when the administration authorities implement a uniform system of electronic document circulation integrated with the Electronic Platform of Public Administration Services (e-PUAP). Most engineers, architects and designers treat the digitization of construction as a positive change, beneficial due to the reduction in the number of visits to the office and the elimination of the need to create papers (by sending files in electronic form, the investor will not spend money on printing hundreds or even thousands of pages of documents).

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<sup>26</sup> Z. Leoński, M. Szewczyk, M. Kruś, *Prawo zagospodarowania przestrzeni*, Warszawa 2012, p. 337.

At the same time, there is a risk that the time of conducting online proceedings will be longer for the first year from the entry into force of the regulations due to the habits of officials<sup>27</sup> and underinvestment of architectural and construction administration authorities.

Despite many shortcomings, one can also notice a positive phenomenon in the field of digitization, which is the development of cooperation between public administration bodies. This cooperation is developing within the informal network of national authorities created on the initiative of the Chief Inspector of Construction Supervision with Voivodship Inspectorates of Construction Supervision. Meetings that are cyclically every quarter allow for the mapping of problems with the practical use of digitization occurring in individual regions. Hardware deficiencies exist, but not to the extent of blocking the digitization project. Nevertheless, as far as possible, the central authorities will provide technical and financial support to Provincial Building Supervision Inspector.

In Georgia, in force law is Georgia law on construction activities, the law defines the legal, organizational, and economic features of relations between participants in construction works on the territory of Georgia and establishes a mechanism for the protection and regulation of norms related to these activities<sup>28</sup>. The executive bodies of Georgia, the Autonomous Republics of Ajara and Abkhazia and local self-government bodies shall carry out the legal regulation of construction activities, within the scope of their authority, according to the Constitution of Georgia, the international treaties and agreements of Georgia, and the legal and subordinate normative acts of Georgia. The fundamental reform of Georgian construction law is connected with drafting the Code of Spatial Planning and Construction of Georgia that began back in 2012 and the discussions are still going on<sup>29</sup>. The act also allows for electronic submission of applications to construction administration authorities. In Article 108 Code of Spatial Planning and Construction of Georgia, which provides for administrative proceedings related to construction works, it is indicated that the administrative body issuing a building permit for an architectural design. The decision is made on the basis of the provisions of the General Administrative Code of Georgia. Applying for a building permit in order to agree an architectural design requires submitting an application in writing or electronically to the administrative authority issuing the permit.

<sup>27</sup> F. Studnicki, *Prawo i cybernetyka*, Warszawa 1969, p. 86.

<sup>28</sup> Law of Georgia no. 829 of 23 December 2008, <https://matsne.gov.ge/en/document/view/17338> (accessed on 20.09.2022). Spatial Planning, Architecture and Construction Code of Georgia (no. 3213-RS of 2018).

<sup>29</sup> U. Zakashvili, K. Kalichava, *Modern Development Tendencies in Georgian Construction Law*, "Studia Prawa Publicznego" 2018, no. 1(21), p. 11.



## 6. Digitization in construction - further stages in Poland

In 2021, work was completed on the new electronic central register of people with building licenses — e-CRUB. The register is intended for all stakeholders directly and indirectly involved in conducting the investment and construction process, this software can be used by investors, architects, engineers, employees of architectural and construction administration bodies, construction supervision employees. entitled disciplinary punished. The system is managed by Chief Inspector of Building Supervision based on data from the Polish Chamber of Civil Engineers and the Chamber of Architects of the Republic of Poland. The search engine allows you to quickly check the qualifications and building permissions of people who perform independent functions in the construction industry. The register enables faster commencement of the construction process by authorized persons to perform independent technical functions in the construction industry and will ultimately be integrated with other systems requiring confirmation of construction qualifications. The decision to enter in the register will be automated. It is therefore the first example of artificial intelligence used in the construction process.

It also created an electronic version of the search engine for the register of applications, decisions, and notifications in construction matters “RWDZ +”. The digital system extracts data from other systems fully automatically using artificial intelligence. Compatibility is also being implemented with the domain program to support construction processes used in powiat starosts, e-construction service and other IT solutions that will be developed in the future. This system will improve control activities and transfer of information between architectural and construction administration authorities.

Soon, communes will also develop “Spatial Information Systems” with models of underground and above-ground infrastructure and supplement them with information on the existing buildings (including the shape and location) and the provisions of Local Plans or the Decision on the ZiZT, then it will also be possible to quickly verify the compliance of the investment with the regulated by them building conditions. This will make it possible to quickly determine the scope of the object’s impact on neighboring buildings, using the data contained in the system. It also aims to fully automate the acceptance by building supervision. An important element is also the launch of the “Electronic Construction Log”, under which there will be an investor’s account with all pending matters related to the investment. The Electronic Construction Log will operate on a nationwide scale.

Central body The Chief Inspector of Construction Supervision has also started work on a new IT project, the System for Handling Administrative Proceedings



in Construction, *i.e.*, an IT system for authorities to conduct fully electronic administrative proceedings.

Therefore, technical work has been carried out on the existence of the systems, but there have been no legal changes to the Building Law Act yet.

## Conclusions

Modernizing modern public administration enables the introduction of new information and communication technologies, in particular digital platforms, as well as information systems and information flows. These events raise many profound questions for public administration, some of which have immediate consequences and others of concern in the short and medium term.

In the immediate context and in the light of the examples used here, the information policy with numerous accompanying benefits seems to be developing also in the area of investment and construction procedures. However, a few caveats need to be made. First, the costs of developing some IT systems in public administration are enormous.

E-construction and related applications are a good example of this, as it represents one of the largest IT administration projects ever developed in Poland and also in Georgia. These systems require large-scale investment, and their justification and subsequent purely public funding are more difficult in times of public sector constraints, especially the financial problems of a long-lasting pandemic. Moreover, the rationale is hampered by the fact that there are few, if any, agreed criteria for assessing the costs and benefits of new digital platforms. The harmful consequence of this is that public organizations can become vulnerable to the powerful sales rhetoric of big computer companies, software vendors. Second, the maintenance and development of complex computing systems requires a high degree of expertise from the administrative staff themselves. The helpdesk system prepared by the Main Office of Construction Supervision to help the architects of architectural and construction administration should be positively assessed. Public authorities' wage rates make it difficult to recruit and retain such expertise, again exposing public authorities to a lack of qualified staff. Thus, "adaptation" of software to local conditions is difficult to achieve without appropriate expertise.

Third, there is growing concern about data security and the recurring impact on personal privacy<sup>30</sup>. Because large design documents are implemented in electronic systems, they are often included in specialized programs. The benefits seem to be the quick exchange of data between administrative bodies, as well as an increase

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<sup>30</sup> H. Margetts, *The Automated State*, "Public Policy and Administration" 1995, vol. 10, is. 2, pp. 88-103.

in the willingness of informal cooperation between bodies and mutual assistance. However, the problem may be the privacy issue in a customer-centric perspective becomes a big problem and thus the need to protect data and information is effectively raised as a key issue<sup>31</sup>.

In the long run, these information systems raise many important issues regarding the organizational shape of public administration. Information systems give localities (selected or not) the possibility to better manage their territories to developing a better understanding of local conditions and their ability to separate service activities and to target policy implementation accordingly. If the current transformation of public administration continues, with an emphasis on customer orientation, decentralized forms of administration should develop. However, in the case of the implementation of such costly legal solutions, the local government cannot be deprived of state funds for the implementation and implementation of digitization of construction procedures.

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<sup>31</sup> More about it: K. Chałubińska-Jentkiewicz, *Prawna ochrona treści cyfrowych*, Warszawa 2021, p. 37.

