

Research Article

THE RIGHT TO REMAIN OFFLINE IN THE DIGITAL TRANSFORMATION ERA: A COMPARATIVE STUDY OF VIETNAM AND THE EUROPEAN UNION

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ABSTRACT

Background: *The digital transformation is increasingly reshaping the delivery of public services and justice, yet ‘digital-by-default’ reforms can produce exclusion where access becomes contingent on mandatory online engagement. This article examines the emerging right to remain offline, understood as an individual’s freedom not to be compelled to use internet-based technologies to exercise rights or fulfil everyday obligations, and analyses its normative foundations in autonomy, equality, and non-discrimination, with a particular focus on older people and the risks of digital ageism. The study compares Vietnam’s rapid, state-driven digitisation with the European Union’s evolving standards on digital inclusion and ‘digital choice’.*

Method: *This article adopts a qualitative doctrinal and functional-comparative methodology. It combines doctrinal analysis of legal texts with a functional comparison of how Vietnam and the EU legal order address access to public services and justice under digital-by-default reforms. The study analyses*

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legislation, policy instruments, and (where available) administrative guidance alongside relevant scholarship and institutional reports. Socio-legal insights were used only for desk-based contextualisation, drawing on existing literature and published evidence; no original empirical research (surveys or interviews) was conducted.

Results and Conclusions: The analysis finds that Vietnam's legal architecture strongly enables electronic transactions and digital identification, yet provides no explicit entitlement to offline access. Mandatory verification of e-ID accounts even for 'offline' procedures and local 'paperless' pilots illustrates how digitalisation may translate into *de facto* compulsion, with older adults disproportionately struggling to use key platforms, raising risks of indirect discrimination and digital ageism. In the EU, policy instruments emphasise inclusion and freedom of choice, but binding EU law does not codify a justiciable offline right; protection, therefore, remains uneven and largely dependent on Member State implementation. A comparative discussion suggests that, despite different regulatory styles, both contexts face a common risk: the erosion of substantive equality and effective access to justice when offline options are not legally secured. The article concludes that safeguarding offline access should be treated as a core condition of rights-respecting digital governance and recommends: (1) enshrining offline access in law; (2) mandating multi-channel service delivery; (3) adopting digital inclusion impact assessments; and (4) countering digital ageism through inclusive service design, training, and assisted access mechanisms. It further clarifies the dual nature of the right to remain offline: as an autonomy-based freedom and as an enabling guarantee for the effective exercise of other rights.

1 INTRODUCTION

Digital transformation has become a defining project of contemporary governance. States increasingly redesign public administration around online portals, digital identification, and 'paperless' procedures, often justified by efficiency, transparency, and service quality. However, this shift raises a distinct legal problem: when access to public services is conditioned, formally or *de facto*, on digital participation, individuals who cannot or do not go online face increased risks of exclusion, loss of autonomy, and unequal enjoyment of rights. In practice, digitalisation can move from facilitation to *compulsion* through procedural architecture, service design, and administrative practice, even where 'offline' interaction nominally remains available.

This article addresses that problem through the concept of the right to remain offline. It denotes an individual's freedom not to be compelled to use online technologies or internet-based services to exercise rights or fulfil everyday obligations, protecting the choice to live and interact without being forced to rely on the Internet. The concept is also framed as the 'negative mirror' of the right to internet access. As internet use becomes virtually obligatory for participation in society, the normative question shifts to whether individuals require protection against being dragged into the digital realm against their will. This framing is not

anti-technology; instead, it foregrounds a rights-based demand that digital government should remain compatible with autonomy, equality, and effective access.

A comparison between Vietnam and the European Union is particularly instructive because both jurisdictions pursue ambitious digitalisation but embody different regulatory logic and, consequently, different vulnerabilities. The article focuses on older people as a salient case study because age-related barriers make the distributive consequences of digitalisation especially visible. Older adults are frequently positioned at the intersection of limited digital skills, usability constraints, accessibility barriers, and reliance on assisted interaction. For that reason, they constitute a paradigmatic group through which ‘digital-by-default’ reforms may generate indirect discrimination and what is increasingly discussed as digital ageism, a systemic bias in service design and governance assumptions that privileges digitally fluent users. The comparison thus tests whether public law principles of equality and access can realistically protect offline citizens in the absence of explicit entitlements. While older people provide an analytically clear lens, the right to remain offline is not confined to age; it also matters for persons with disabilities, low-income or rural residents, and individuals who prefer offline interaction for privacy, conscience, or safety reasons.

Methodologically, juxtaposing a national legal system and a supranational one is relevant because the problem studied, digital-by-default reforms turning into de facto digital compulsion, arises across governance levels. Vietnam’s unitary state still operates as a two-level system in practice (central mandates and local administrative implementation). In contrast, the EU is structurally two-level (EU-level norms and Member State execution). Comparing these legally two-component systems helps to trace how high-level commitments (autonomy, equality, non-discrimination, and accessibility) are translated into enforceable entitlements, and where implementation gaps emerge. It also enables cross-learning, as EU multi-level rights standards serve as reference points for Vietnam’s rapidly evolving framework. At the same time, Vietnam’s accelerated digitisation creates visible risks that can also materialise in EU Member States when offline options are not legally secured.

The article makes three contributions. First, it clarifies the right to remain offline as a rights-based concept linked to autonomy, equality, and access to public services. It asks whether it should be understood as a stand-alone right or as a doctrinal implication of existing guarantees. Second, it offers a structured comparison between a national jurisdiction undergoing accelerated digitalisation (Vietnam) and a supranational legal order with multi-level governance (EU), highlighting convergences and divergences in legal design and implementation risks. Given this institutional distinction, the EU is not treated as a unitary state. Instead, the analysis distinguishes EU-level norms and policy commitments from Member State implementation, using selected national examples as illustrative patterns rather than an exhaustive mapping. This design aims to preserve functional comparability: how different governance structures prevent (or enable) digital-by-default reforms from turning into digital-only barriers for offline citizens. Third, it develops reform-oriented

insights by identifying transferable practices and proposing rights-based safeguards that can reconcile digital innovation with substantive equality.

The article proceeds as follows. Section 2 sets out the methodology. Section 3 develops the theoretical foundations of the right to remain offline. Sections 4 and 5 examine Vietnam and the EU, respectively, analysing their legal architecture and practice, and the implications for older persons. Section 6 synthesises the comparative findings and advances a set of consolidated recommendations to safeguard offline access as a condition of rights-respecting digital governance.

2 METHODOLOGY

This article adopts a qualitative doctrinal and functional-comparative methodology, informed by socio-legal scholarship. The doctrinal component examines how the 'right to remain offline' (or equivalent protections) can be derived from, or constrained by, existing legal norms governing access to public services, non-discrimination, and administrative procedures. The analysis is desk-based: socio-legal insights are used to contextualise how digitalisation operates in practice, drawing on published reports and existing literature rather than original fieldwork. Accordingly, no original empirical research (surveys or interviews) is undertaken.

The analysis relies on primary and secondary sources. Primary sources include: (i) Vietnamese legislation and subordinate regulations relevant to digital government, administrative procedure, service delivery channels, and the rights of older persons; (ii) Vietnamese national strategies and governmental policy instruments on digital transformation and public service modernisation; and (iii) EU-level legal and policy instruments framing digital governance and inclusion (e.g., treaty principles, the EU Charter of Fundamental Rights, relevant directives and regulations, and major policy declarations and strategies). Where available and relevant, the study also considers administrative practice (official guidance, procedural rules, service design requirements) and jurisprudence addressing access barriers, discrimination, or procedural fairness in digital settings. Secondary sources include peer-reviewed scholarship on digital exclusion, digital rights, and access to justice, alongside reports and position papers from institutions and civil society organisations (e.g., EU bodies and ageing or digital-inclusion advocacy groups). These materials are used to contextualise legal developments, identify practical frictions, and assess the plausibility and limits of an offline-right claim in each legal order.

The comparison is structured using a functional approach: Vietnam and the EU are examined as distinct legal systems that respond to the same problem, ensuring equal access to public services as digital channels become dominant. Shared evaluative criteria guide the comparison: (i) the existence and clarity of legal entitlements to non-digital access; (ii) institutional duties to provide offline alternatives or assistance; (iii) implementation

tools (procedural safeguards, accessibility obligations, service standards); and (iv) accountability mechanisms (review, complaints, remedies). This approach allows identification of convergences, divergences, and transferable practices. Older adults are treated as a salient case of digital vulnerability and potential indirect discrimination. The article draws on existing demographic and policy literature (rather than empirical data) to explain why ageing-related barriers, limited skills, usability, accessibility, and reliance on assisted interaction make offline options especially important for maintaining substantive equality in access to public services.

The study does not include original empirical research (no surveys or interviews). It is also constrained by language and source availability, particularly in capturing variation across EU Member States. Accordingly, the EU discussion emphasises EU-level standards and illustrative practices rather than an exhaustive mapping of national regimes.

The comparison is intentionally asymmetric in institutional terms: Vietnam is a unitary state capable of centrally mandated ‘hard-law’ requirements and administrative directives, whereas the EU is a supranational, multi-level legal order in which binding rules coexist with soft-law instruments and varied Member State implementation. To avoid false equivalence, the article compares functional equivalents rather than institutional forms. It, therefore, assesses: (i) the overarching legal-policy architecture that enables digital-by-default public services; and (ii) the presence, enforceability, and effectiveness of safeguards that preserve offline access (multi-channel duties, procedural accommodations, and remedies). The EU discussion proceeds in two steps: mapping EU-level standards, followed by examining illustrative Member State practices, while the Vietnam discussion analyses national mandates alongside selected local implementation examples.

3 THEORETICAL FOUNDATIONS OF THE RIGHT TO REMAIN OFFLINE

3.1. Defining the ‘Right to Remain Offline’

The right to remain offline, often phrased as the right not to use the Internet or the right to an analogue life, refers to an emerging concept in human rights and digital policy discourse. It entails an individual’s freedom not to be compelled to use online technologies or internet-based services to exercise their rights or fulfil everyday obligations.¹ In essence, as daily life becomes digitised by default, this proposed right would protect one’s choice of how to live, interact, and access services without being forced to rely on the Internet. Academically, scholars frame it as a necessary counterbalance to the push for digitalisation, questioning

1 Iberto J Cerda Silva, ‘Internet Freedom is Not Enough: Towards an Internet Based on Human Rights’ (2013) 10(18) SUR 16.

whether forcing people online conforms to democratic standards.² Legally, it is explored as a prospective fundamental right, potentially a stand-alone right, or as an interpretation of existing rights applied to the digital context.³ The core issue is whether current human rights (such as privacy, autonomy, or equality) already protect those who remain offline, or if a new explicit right is needed to ensure no one is forced onto digital platforms against their will.⁴ Analytically, the right to remain offline is dual in nature: (i) as an independent right reflecting human freedom and autonomy (a negative liberty not to be coerced online); and (ii) as an enabling guarantee for the effective exercise of other rights (such as access to justice and public services, equality, and privacy) when digital-by-default arrangements create practical barriers.

Importantly, the right to remain offline is conceived as the negative mirror of the widely discussed right to access the Internet. For over a decade, global discourse has touted internet access as essential for development and participation, with the UN Human Rights Council affirming in 2012 that people's rights offline must also be protected online.⁵ In those earlier debates, going online was seen as a choice or even a benefit to be guaranteed. However, within a relatively short period, the situation inverted, with internet use ceasing to be merely optional and becoming virtually obligatory for participation in society.⁶ This evolution has prompted scholars to ask whether individuals now require a right not to be dragged into the digital realm.⁷ Thus, the right to remain offline can be understood as a facet of personal autonomy and self-determination in the digital age, ensuring that opting out of ubiquitous connectivity does not result in exclusion or deprivation of rights.⁸ Legally, while no international treaty yet explicitly names a 'right to offline life', it is increasingly argued that such a right is implicit in or derived from existing human rights principles of dignity, freedom of choice, and equality.⁹

3.2. Relationship with Fundamental Rights

The proposal for a right to remain offline is deeply intertwined with several fundamental rights and principles. Rather than existing in isolation, it builds on and complements

2 Dariusz Kloza, 'The Right Not to Use the Internet' (2024) 52 *Computer Law & Security Review* 105907, doi:10.1016/j.clsr.2023.105907.

3 *ibid*; Paul De Hert and Dariusz Kloza, 'Internet (Access) as a New Fundamental Right. Inflating the Current Rights Framework?' (2012) 3(3) *European Journal of Law and Technology* <<http://ejlt.org/article/view/123/268>> accessed 31 December 2025.

4 De Hert and Kloza (n 3).

5 The Promotion, Protection and Enjoyment of Human Rights on the Internet (adopted 16 July 2012 HRC Res 20/8) <<https://docs.un.org/a/hrc/res/20/8> accessed> 31 December 2025.

6 Kloza (n 2).

7 Bart Custers, 'New Digital Rights: Imagining Additional Fundamental Rights for the Digital Era' (2022) 44 *Computer Law & Security Review* 105636, doi:10.1016/j.clsr.2021.105636.

8 Kloza (n 2).

9 *ibid*

established rights by addressing new challenges arising in a digitised society. Key connections include the following:

3.2.1. Autonomy and Freedom of Choice

At its heart, the right to stay offline upholds individual autonomy as the freedom to make personal choices about how one uses technology. Scholars argue that the growing expectation to engage digitally may undermine individual autonomy, especially when accessing basic services or rights depends on being online.¹⁰ The ability to disconnect and refuse digital services is seen as part of one's informational self-determination, grounded in human dignity.¹¹ In this view, just as people have the liberty to use the Internet, they should equally have the liberty not to use it. Protecting this choice ensures that technology remains a tool for human empowerment rather than a coercive requirement. Indeed, recent research emphasises that the freedom to disconnect is equally essential to prevent new forms of exclusion, coercion, and surveillance.¹² In practical terms, the right to offline life would guarantee that opting out of digital services (whether for a day or permanently) does not strip someone of their agency or access to society.

3.2.2. Access to Public Services and Participation

The right to access public services is a fundamental aspect of citizenship and equality. As governments move toward e-government and 'digital by default' administration, there is a risk that people who remain offline could be shut out of essential services such as healthcare, social security, taxation, voting, and administrative procedures. The right to remain offline asserts that citizens must retain alternative, non-digital pathways to interact with public authorities.¹³ This right would oblige authorities to maintain offline access points (e.g. physical offices, paper forms, or phone lines) so that no one is denied public services due to

10 De Hert and Kloza (n 3); Seeta Peña Gangadharan, 'The Downside of Digital Inclusion: Expectations and Experiences of Privacy and Surveillance among Marginal Internet Users' (2017) 19(4) *New Media & Society* 597, doi:10.1177/1461444815614053.

11 Angela Vivarelli, 'The Crisis of the Right to Informational Self-Determination Essays' (2020) 6(1) *The Italian Law Journal* 301, doi:10.23815/2421-2156.ITALJ.

12 Kloza (n 2); Dariusz Kloza and others (eds), *The Right Not to Use the Internet: Concept, Contexts, Consequences* (Routledge 2025) doi:10.4324/9781003528401.

13 For example, Belgium's experience illustrates this tension: although laws exist to prevent a forced switch to all-digital public services, they can be overridden by new policies, as seen in a 'Digital Brussels' plan aiming for 100% online services. Such moves sparked criticism for not guaranteeing in-person or human-operated options. In response, legal scholars in Belgium have advocated enshrining a 'right to choose the digital way' in the Constitution, explicitly including both 'the right to access the Internet and the right not to use it (the right to human interaction).' See, Elise Degrave, 'Digitalisation of Public Services in Belgium: Enshrining the Right Not to Use the Internet in the Constitution' in Dariusz Kloza and others (eds), *The Right Not to Use the Internet: Concept, Contexts, Consequences* (Routledge 2025) 44, doi:10.4324/9781003528401-5.

being offline. These measures reflect the principle that digital inclusion must not come at the expense of inclusiveness; people should not have to surrender their offline existence to receive government services or participate in civic life. Ensuring offline access is not about resisting progress; it is about inclusive design and maintaining trust. For example, keeping a paper form or staffed office as an option not only aids those currently offline but also provides a safety net for all, if an online system crashes or suffers a cyberattack, having a non-digital fallback can be critical for continuity.¹⁴

3.2.3. Equality and Non-Discrimination

A core rationale behind the right to remain offline is to prevent *digital exclusion* from worsening social inequalities. Making services and opportunities 'internet-only' can disproportionately disadvantage certain groups, particularly the elderly, people experiencing poverty, those with low digital literacy, or people in areas with poor connectivity. Equal treatment demands that these individuals are not left behind in the rush to digitalise. Researchers highlight that the digital divide remains significant.¹⁵ However, these same individuals increasingly face a *de facto* obligation to go online to access essential services, creating a paradox where those least capable of going online are most pressured to do so.¹⁶ This can amount to indirect age discrimination or discrimination based on education and income. The right to remain offline would help mitigate such bias by ensuring that offline citizens enjoy the fundamental freedom of choice, including the freedom to be offline, without suffering a loss of opportunities.¹⁷ In human rights terms, it draws on the right to non-discrimination (e.g., Article 14 ECHR),¹⁸ suggesting that requiring internet use for basic rights could violate equality if it puts vulnerable groups at a systematic disadvantage.¹⁹

14 Elżbieta Kuźlewska, Damian Malinowski and Mariusz Tomaszuk, 'Human Rights and Digital Choice: Rethinking the Right (Not) to Use the Internet' (2025) 30(4) Białostockie Studia Prawnicze 57, doi:10.15290/bsp.2025.30.04.04.

15 For instance, in Europe, a substantial percentage of seniors (65+) either do not use the internet or lack home access, often citing lack of skills or interest rather than just cost. See, Elżbieta Kuźlewska, Mariusz Tomaszuk and Damian Malinowski, 'The Elderly Digital Divide: Digital Exclusion Versus the Right Not to Use the Internet' [2025] International Journal for the Semiotics of Law, doi:10.1007/s11196-025-10334-4.

16 Kuźlewska, Malinowski and Tomaszuk, 'Human Rights and Digital Choice' (n 14).

17 De Hert and Kloza (n 3).

18 Council of Europe, *European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols)* (ECHR 2013) <https://www.echr.coe.int/documents/d/echr/convention_eng> accessed 31 December 2025.

19 Kuźlewska, Malinowski and Tomaszuk, 'Human Rights and Digital Choice' (n 14).

3.2.4. Privacy and Other Fundamental Rights

The right to remain offline can also be linked to privacy and related freedoms. Some individuals may choose to stay offline to protect their privacy, avoid data surveillance, or preserve a slower pace of life. As digital services often entail the collection of personal data, an offline life can be seen as a way to opt out of pervasive data processing. Scholars have noted that continuous connectivity blurs boundaries and may infringe on the right to private life and even freedom of thought or leisure.²⁰ The freedom not to be permanently connected, akin to the ‘right to disconnect’ in labour law, is connected to one’s mental health, work-life balance, and privacy.²¹ Ensuring an offline alternative helps protect individuals from pressures that might infringe on these rights. Furthermore, some jurists suggest that existing rights, such as privacy (Article 8 ECHR) and freedom of expression (Article 10 ECHR), can be interpreted in today’s context to encompass a right to an offline life.²²

4 VIETNAMESE POLICY, LAW AND PRACTICE

4.1. Digital Transformation and the Emerging Legal Architecture

Vietnam is undergoing a rapid state-driven digital transformation. The Prime Minister’s Decision No. 749/QĐ-TTg (2020) approved a National Digital Transformation Programme to 2025 to completely renovate the way in which the Government operates and build a *digital government, economy, and society* by 2030.²³ In 2022, Decision No. 411/QĐ-TTg set ambitious targets for the digital economy and society, including having the digital economy

20 For example, being bombarded by online work communications or social media. See, Hugh Collins, ‘Privacy and the Right to (Dis)Connect’ (2025) 45(3) *Comparative Labor Law & Policy Journal* 467, doi:10.60082/2819-2567.1064.

21 Sylwia Pangsy-Kania and Marcin Zieleniecki, ‘Right to Disconnect as a Challenge Determined by the Digitisation of the Labor Market-Implications in the Context of Work-Life Balance’ (2024) 20(1) *Polityka Społeczna* 1, doi:10.5604/01.3001.0054.8939

22 Sohail Aftab, ‘Reconciling the Freedom of Expression with the Right to Privacy: Protecting Private Life from Media Invasions Under the ECHR’ in *Comparative Perspectives on the Right to Privacy: Pakistani and European Experiences* (Springer 2024) 127, doi:10.1007/978-3-031-45575-9_5.

23 Decision of the Prime Minister of Vietnam No 749/QĐ-TTg ‘On Approving the National Digital Transformation Programme by 2025, with Orientations Toward 2030’ (adopted 3 June 2020) [in Vietnamese] <<https://chinhphu.vn/default.aspx?pageid=27160&docid=200163>> accessed 31 December 2025. This strategy envisions broad adoption of e-government services and the expansion of infrastructure to ‘narrow the digital gap’, for example, by bringing fibre-optic internet to 100% of communes and universalising smartphone access. See, Ministry of Science and Technology, ‘Vietnam Aims to Become a Digital Society by 2030’ (*Ministry of Science and Technology (MST) portal*, 5 June 2020) <<https://english.mic.gov.vn/vietnam-aims-to-become-a-digital-society-by-2030-197142430.htm>> accessed 31 December 2025.

contribute 20% of GDP by 2025.²⁴ Alongside these strategies, the government launched Project 06 as a nationwide initiative to develop an integrated population data system and digital identification (VNeID) platform as the backbone of e-government. Under Project 06, a single VNeID account allows citizens to access a wide range of public services (ID, household registration, social insurance, etc.) through a 'one national portal' approach.²⁵ The overarching legal architecture has been adapted to facilitate this transformation; notably, a new Law on Electronic Transactions 2023 was enacted (replacing the 2005 law) to cover *all* socio-economic activities conducted by electronic means.²⁶ The 2023 law removed prior restrictions that had barred specific procedures (like marriage or land records) from being conducted online,²⁷ thereby re-emphasising that electronic transactions are legally on par with traditional ones in virtually every domain.

Vietnam's current laws and policies, however, make little mention of any right to remain offline or to opt for non-digital services. The push is overwhelmingly toward 'digital by default.' For instance, from July 2025, authorities will require the use of e-ID (VNeID) accounts for all administrative procedures – both online and offline. Even when citizens submit paperwork in person, officials must verify the individual's digital ID account.²⁸ In effect, possessing a digital identity has become a *de facto* obligation for participating in basic civic transactions. Existing legal instruments, such as the Law on the Elderly 2009²⁹ and the Law on E-Transactions, do not provide an explicit option for offline access to public services. There is no provision guaranteeing citizens the right to choose paper-based or in-person processes. While Vietnam's digital strategy documents occasionally invoke the principle of

24 Decision of the Prime Minister of Vietnam No 411/QĐ-TTg 'On Approving the National Strategy for the Development of the Digital Economy and Digital Society by 2025, with Orientation Toward 2030' (adopted 31 March 2022) [in Vietnamese] <<https://vanban.chinhphu.vn/?pageid=27160&docid=205555>> accessed 31 December 2025; Nguyen Minh Thao and Nguyen Quoc Viet, 'Improving the Regulatory Framework for Tech Governance: The Key to Achieving High Growth in Vietnam' (*Tech for Good Institute*, 25 April 2025) <<https://techforgoodinstitute.org/blog/country-spotlights/improving-the-regulatory-framework-for-tech-governance-the-key-to-achieving-high-growth-in-vietnam/>> accessed 31 December 2025.

25 Thai Khang, '25 Full-Online Public Services Launched to Digitize Vietnam's Administration' (*VietNamNet Global*, 18 November 2025) <<https://vietnamnet.vn/en/25-full-online-public-services-launched-to-digitize-vietnam-s-administration-2463884.html>> accessed 31 December 2025.

26 Law of the National Assembly No 20/2023/QH15 'Law on Electronic Transactions' (adopted 22 June 2023) [in Vietnamese] <<https://vanban.chinhphu.vn/?pageid=27160&docid=208421>> accessed 31 December 2025.

27 Vinh Luu and others, 'Unpacking Vietnamese Law on E-Transaction 2023: A Thorough Exploration of Key Points' (*International Bar Association*, 12 December 2023) <<https://www.ibanet.org/Unpacking-Vietnameses-law-on-etransactions-2023>> accessed 31 December 2025.

28 Tram Ngoc Bich Nguyen, Dung Thi Phuong Le and Trung Duc Nguyen, 'Vietnam to Require E-ID Accounts for Companies' (*Tilleke & Gibbins*, 6 June 2025) <<https://www.tilleke.com/insights/vietnam-to-require-e-id-accounts-for-companies/>> accessed 31 December 2025.

29 Law of the National Assembly No 39/2009/QH12 'Law on the Elderly' (adopted 4 December 2009) [in Vietnamese] <<https://vanban.chinhphu.vn/default.aspx?pageid=27160&docid=92321>> accessed 31 December 2025.

inclusivity (e.g. ‘ensuring no one is left behind’ in the digital transition),³⁰ this has not yet been translated into enforceable rights or clear mandates to preserve alternative, non-digital service channels. The emphasis remains on bringing the population onto digital platforms, rather than on balancing digital obligation vs digital choice. To address this issue, a specific amendment should be proposed for the Law on the Elderly 2009, or possibly for the Law on Electronic Transactions 2023 and its implementing regulations. This amendment should ensure that individuals have the right to choose how they access essential public services and justice-related procedures, whether in person, by paper, over the phone, or through assisted channels. Additionally, it should include a rule to ensure equivalence and prevent disadvantage, as well as an obligation to provide reasonable assistance.

4.2. Implementation and Inclusion Challenges for Older People

The on-the-ground implementation of Vietnam’s digital government strategy reveals significant inclusion challenges, especially for older people. A clear example is Hanoi’s recent ‘paperless administration’ mandate. Since October 2025, Hanoi authorities have no longer accepted paper documents for 25 standard public services, requiring them to be completed entirely online via the national e-portal or VNeID. This shift to all-digital workflows, part of Project 06’s pilot, aims to streamline services, but it risks leaving less tech-savvy citizens adrift. City officials have set up scanners and on-site staff at service centres to assist those who arrive with physical documents.³¹ In rural and remote areas, ‘Community Digital Technology Groups’ (often youth volunteers) have been mobilised to help villagers use online portals. These stopgap measures highlight a core issue: without direct support, many older adults cannot navigate the new digital-only procedures and risk being excluded from the process. Indeed, about 30% of citizens, especially the elderly and those in remote areas, struggle to use the VNeID app or the National Public Service Portal independently.³² Older people in Vietnam today did not grow up with computers and smartphones; many have low digital literacy and may not own modern devices or reliable internet connections. When essential services like welfare benefits, healthcare registration, or personal identification go online-only, these older individuals face disproportionate hurdles. The result is a form of digital ageism, in which a seemingly neutral ‘digital transformation’ policy has an indirect discriminatory impact on a particular age group that is less digitally fluent.

30 Thai (n 25).

31 ibid

32 ibid. For example, some elderly people have access only to a smartphone that ‘actually belongs to their children,’ leading them to forget passwords or feel a lack of ownership over the device. Many find government apps and websites not fully age-friendly: small font sizes, English-only interfaces, and complex multi-step logins can discourage use. Notably, the government has begun adding accessibility features to the VNeID app, such as voice guidance and instructional videos, but these adaptations are still in early stages.

From a law-and-policy perspective, Vietnam's push has introduced rules (the 'law' modality) that effectively require digital interfaces to be mandatory. These legal mandates lack accompanying rights to accommodations, so the burden falls on *social measures* (like volunteer helpers) to prevent exclusion. The code or architecture modality, as well as platform design, influences outcomes. If the National Public Service Portal is not intuitive for seniors or if one must have a smartphone to receive a one-time password, then the technology *itself* acts as a gatekeeper. Meanwhile, social norms can either ameliorate or exacerbate digital exclusion. In Vietnam, a positive norm is emerging in urban areas where community classes teach the elderly how to use smartphones and even AI apps, fostering intergenerational support.³³ However, a negative norm is the stereotype that older people are 'too old to learn' technology. This assumption can creep into policy design (e.g., a lack of investment in seniors' training) and into everyday interactions. If younger service staff grow impatient with elders at a digital kiosk, or if important information is only announced via Facebook or Zalo (popular messaging apps), assuming everyone is online, older citizens are implicitly marginalised.

The net effect is indirect discrimination through digital design. Vietnam's Constitution and laws formally guarantee equality for all citizens, but when public services go digital, equal access in practice is not assured. *Digital ageism* manifests as systems that accommodate the young and connected, while imposing new hardships on the old. For example, a smart city app for medical appointments might be hailed as progress.³⁴ However, an 80-year-old without a smartphone could effectively be *denied access* to healthcare unless alternative arrangements are made. Such scenarios reveal that digital exclusion is a modern form of social exclusion. In Vietnam's case, unless deliberate inclusion measures are scaled up, the laudable drive for efficiency may inadvertently create a two-tier society divided by digital ability, with older people at risk of becoming second-class citizens in the digital state.

5 THE EU LEGAL FRAMEWORK AND MEMBER STATE IMPLEMENTATION

5.1. Digital Strategy and Legal Norms at the EU Level

The European Union's digital policy frameworks paint an ambitious vision of a 'Digital Decade' by 2030, in which governments and citizens pivot strongly toward online services. The 2030 Digital Compass sets concrete targets such as '100% online provision of key public

33 Lê Hương, 'Digital Technology for the Elderly' (*Viet Nam News*, 6 May 2025) <<https://vietnamnews.vn/society/1717072/digital-technology-for-the-elderly.html>> accessed 31 December 2025.

34 Ittay Mannheim, 'Ageism in the Use and Design of Digital Technology' (PhD thesis, Tilburg University 2023) doi:10.13140/RG.2.2.14854.75840.

services' for citizens and businesses.³⁵ In parallel, the EU has enshrined high-level principles in the 2022 European Declaration on Digital Rights and Principles, pledging a human-centric digital transition that 'benefits everyone' and 'leaves no one behind'.³⁶ This Declaration underscores values of inclusion and solidarity, affirming that rights must be respected online as well as offline. Notably, it highlights the freedom of choice in the digital environment, underscoring the importance of user autonomy. However, conspicuously absent is an explicit right to opt out of digital life, i.e. the choice to remain offline is more an implicit aspiration than an enforceable guarantee.

Several binding EU laws address digitalisation, but again without expressly securing offline alternatives. The eIDAS Regulation (electronic identification and trust services) and its upcoming update drive Member States to offer digital ID and signatures for cross-border e-government transactions.³⁷ This facilitates 'digital-by-default' public services, but EU law does not mandate parallel paper-based procedures. Likewise, the landmark GDPR (General Data Protection Regulation) empowers individuals in the digital realm, strengthening privacy and personal data autonomy, but focuses on regulating online processing rather than affirmatively ensuring an offline option.³⁸ GDPR's provisions do reflect concern for human agency (for instance, the right *not* to be subject solely to automated decisions), which aligns with the idea that individuals should have control and not be forced into purely digital interactions. However, no GDPR article grants a right to receive services *in person* or via paper.³⁹ In short, EU law robustly protects privacy and data autonomy, but digital autonomy, understood as the right *not* to digitalise one's life, remains underdeveloped in binding norms. The EU's accessibility regulations are significant in this context. The European Accessibility Act (Directive (EU) 2019/882) sets out standardised accessibility requirements for various products and services, including e-commerce and consumer banking services.⁴⁰ Its aim is to reduce barriers for people with disabilities and older users. While this can help address digital exclusion by making online interfaces more user-friendly, it does not, on its

35 European Commission, '2030 Digital Compass: The European Way for the Digital Decade' (COM(2021) 118 final, 9 March 2021) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52021DC0118>> accessed 31 December 2025.

36 European Commission, 'European Digital Rights and Principles' (*European Commission: Shaping Europe's Digital Future*, 2022) <<https://digital-strategy.ec.europa.eu/en/policies/digital-principles>> accessed 31 December 2025

37 European Commission, 'eIDAS Regulation' (*European Commission: Shaping Europe's Digital Future*, 5 May 2025) <<https://digital-strategy.ec.europa.eu/en/policies/eidas-regulation>> accessed 31 December 2025.

38 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 On the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and repealing Directive 95/46/EC (General Data Protection Regulation) [2016] OJ L 119/1.

39 Oskar Josef Gstrein, 'Data Autonomy: Recalibrating Strategic Autonomy and Digital Sovereignty' (2023) 28(4) *European Foreign Affairs Review* 379, doi:10.54648/eerr2023028.

40 Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (European Accessibility Act) [2019] OJ L 151/70.

own, establish a right to remain offline or require public authorities and service providers to offer alternative non-digital options. Therefore, while accessibility duties can enhance usability, they cannot replace the need for legally guaranteed access to services offline.

Importantly, EU policymakers have at times acknowledged that going fully digital must be tempered by inclusivity. The European Commission's Digital Compass communication explicitly reassured that '*public services will always be accessible in person*' even as digital becomes the preferred way to access them.⁴¹ The Digital Decade policy program thus recognises the duty to accommodate those who cannot or prefer not to engage online. However, this promise is a policy commitment rather than a justiciable right. No EU regulation concretely obliges national or EU administrations to maintain offline channels.⁴² In practice, whether citizens can exercise 'digital choice,' the autonomy to interact with authorities and essential services offline, is left to Member State implementation and political goodwill. The evolving concept of 'digital inclusion' in EU discourse certainly aims to ensure that everyone benefits from the digital transformation,⁴³ but stops short of declaring a legal *right to remain offline*.

5.2. Implementation Realities in Member States

Across EU Member States, the push for e-government and digital commerce has accelerated, and so have tensions between efficiency drives and the imperative of inclusion. Many countries have adopted 'digital-by-default' strategies, but the implementation realities reveal a persistent grey digital divide. Europe's population is ageing, and while internet use among older adults is rising, a significant share of seniors remain offline or struggle with digital interfaces.⁴⁴ This means that digital-only public services risk indirectly discriminating against older persons, even in the absence of any intent to exclude. The shift to online-only administration can thus lead to indirect age discrimination and exacerbate social exclusion if not mitigated.

Member States have taken varied approaches to preserving offline alternatives (or not).⁴⁵ France presents a cautionary tale of rapid digitalisation that fails to fully account for the

41 European Commission, '2030 Digital Compass' (n 35).

42 Kuzelewska, Malinowski and Tomasz, 'Human Rights and Digital Choice' (n 14).

43 Juliane Müller, *Rights in the Digital Age* (International IDEA 2025) doi:10.31752/idea.2025.33.

44 As of 2020, roughly one in five EU citizens was over 65, and many older people 'lack access to technology, face accessibility and cost barriers, lack digital skills or simply prefer not to use these technologies.' Overall, more than 40% of Europe's population still lacks basic digital skills, a statistic that aligns closely with the older demographic. See, Andre Felix, 'EDF Resolution: Right to Offline Access to Essential Services' (*European Disability Forum*, 13 November 2024) <<https://www.edf-feph.org/publications/edf-resolution-right-to-offline-access-to-essential-services/>> accessed 31 December 2025.

45 The Member State examples discussed below (France, Germany, Belgium, and Estonia) are illustrative rather than exhaustive, selected to reflect recurrent patterns and contrasting approaches in the implementation of digital-by-default public services, rather than to provide a comprehensive survey of all EU Member States.

elderly. The French government's *Public Action 2022* programme sought to dématérialiser 100% of administrative procedures by 2022.⁴⁶ Indeed, many essential processes, from tax filing to pension applications, moved to primarily online formats. The outcome has been mixed: while digital access improved for some, 61% of people 'sometimes or often' encounter difficulties with online administrative procedures, up from 44% in 2016.⁴⁷ The French case highlights how digitisation without sufficient offline safeguards can lead to *real-world exclusion*. In response, French authorities have begun to stress the need for multiple access channels. France has expanded 'France Services,' a network of about 3,000 one-stop offices (often in town halls or post offices) where staff assist citizens with online admin or provide in-person help.⁴⁸ These efforts aim to ensure that those *left behind by dematerialisation*, often older rural citizens, still have a human interlocutor and do not forfeit their rights due to a lack of digital skills.

In Germany, similar tensions are evident, though the federal structure leads to diverse outcomes. Germany's Onlinezugangsgesetz (Online Access Act)⁴⁹ mandated that over 500 public services be available online by the end of 2022, pushing municipalities and Länder towards digital portals. While Germany has not eliminated in-person administration, parts of the public and private sectors have shifted toward '*digital-only*' service delivery.⁵⁰ These changes sparked public outcry and concern that *ruthless digitalisation* of transport and other services is undermining accessibility. Critics point out that digital-only ticketing excludes the very groups most dependent on public transport, low-income individuals, people with disabilities, and many older people, who may not have smartphones or be comfortable with apps.⁵¹

46 Digital Watch, 'French E-Government Strategy' (*DigWatch*, October 2017) <<https://dig.watch/resource/french-e-government-strategy>> accessed 31 December 2025.

47 Tellingly, 23% of respondents had given up on obtaining a public service or benefit they had a right to because the online process was too complicated, a phenomenon the ombudsperson warns 'amounts to a loss of rights'. Older adults and other disadvantaged groups are over-represented among those struggling, e.g. two-thirds of people with disabilities or in financial difficulty reported problems. See, Hannah Thompson, 'Two Thirds of People Polled Say They Struggle with Online French Admin' (*The Connexion France*, 22 October 2025) <<https://www.connexionfrance.com/news/two-thirds-of-people-polled-say-they-struggle-with-online-french-admin/750033>> accessed 31 December 2025.

48 ibid

49 German Online Access Act 'Onlinezugangsgesetz (OZG)' (adopted 14 August 2017) <<https://www.gesetze-im-internet.de/ozg/>> accessed 31 December 2025.

50 For example, Deutsche Bahn (the national railway) recently stopped selling specific discount train tickets at station machines, making them available only via smartphone or online. Even when buying in person, the customer must provide a mobile number or an email address, effectively coercing digital engagement. In some cities, even public bus tickets can no longer be purchased from drivers in cash and must be bought through an app. See, Digitalcourage, 'German Petition Calls for 'a Life without Digital Coercion' (*European Digital Rights (EDRi)*, 20 November 2024) <<https://edri.org/our-work/german-petition-calls-for-a-fundamental-right-to-a-life-without-digital-coercion/>> accessed 31 December 2025.

51 Anne Durand and others, 'Access Denied? Digital Inequality in Transport Services' (2022) 42(1) *Transport Reviews* 32, doi:10.1080/01441647.2021.1923584.

While federal reform remains pending, some sub-national governments have acted. The State of Schleswig-Holstein added a new article to its constitution in 2021, guaranteeing '*personal, written and electronic access*' to government services and courts, and, crucially, that '*no one may be disadvantaged as a result of the method of access*'.⁵² This provision ensures that an individual who files a paper form or appears in person is given equal treatment to one who transacts online. The German experience thus illustrates both the creeping digitalisation of essential services and emerging safeguards to protect offline access, often motivated by concerns of age-related equity and privacy.

Other Member States offer additional examples of the balance between digital innovation and retention of offline alternatives. In Belgium, despite advanced telecom infrastructure, an estimated 46% of the population was at risk of digital exclusion in 2021. Older Belgians, along with people with low levels of education and income, make up a large share of this digitally vulnerable group.⁵³ The Belgian approach sees financial services as a key front in this battle: recognising that it is impossible to live everyday life without financial services, banks have been reminded of their responsibility to keep services '*accessible to all*', including via non-digital channels. Indeed, Belgium's banking sector has pledged measures such as maintaining ATMs and counter services in less tech-savvy communities, following advocacy by senior groups. This underscores that the 'right to remain offline' debate extends beyond government services to essential private services (banks, utilities, etc.), where branch closures and shifts to apps can also marginalise older clients.

In hyper-digital Estonia, often heralded as '*e-Estonia*,' most public services have been available online for years (from e-ID and e-voting to digital prescriptions). Nevertheless, Estonia has not eliminated offline options: *in-person voting* is still offered alongside internet voting, recognising that some (including many older voters) prefer the traditional ballot box. The government has also invested in user-friendly design and digital literacy training specifically tailored to older citizens, mitigating the age divide. However, studies show that a digital skills gap persists among the oldest Estonians, indicating that, no matter how advanced the digital infrastructure, a segment of the elderly may remain offline or require assistance.⁵⁴ Estonia's example highlights that strong digital infrastructure *can* reduce the grey divide, but it does not erase it; some proportion will still rely on analogue modes.

In all Member States, ageism and concerns about indirect discrimination loom in the background: if governments assume 'everyone is digital,' they risk designing systems that

52 Digitalcourage (n 50).

53 Rik Coeckelbergs, 'Digital Inclusion in Belgium Anno 2022' (*The Banking Scene*, 3 October 2022) <<https://thebankingscene.com/opinions/digital-inclusion-in-belgium-anno-2022>> accessed 31 December 2025.

54 Anu Leppiman, Iivi Riivits-Arkonsuo and Anneli Pohjola, 'Old-Age Digital Exclusion as a Policy Challenge in Estonia and Finland' in Kieran Walsh and others (eds), *Social Exclusion in Later Life: Interdisciplinary and Policy Perspectives* (Springer 2021) 409, doi:10.1007/978-3-030-51406-8_32.

exclude by default.⁵⁵ The rise of terms like ‘digital ageism’ signals awareness that neglecting older adults in digital strategies (or implicitly blaming them for not adapting) is a form of systemic age bias.

6 COMPARATIVE ANALYSIS AND DISCUSSION

Before turning to substantive findings, it is important to clarify the units and levels of comparison. Vietnam is assessed primarily through national legal mandates and administrative practice within a unitary structure. The EU is assessed as a two-level governance setting: EU-level norms and policy instruments set the framework, while Member States determine much of the concrete implementation. The comparative purpose is therefore functional, to evaluate how each system manages the risk that digital-by-default governance becomes digital compulsion, particularly for older persons, rather than to suggest institutional symmetry.

Both Vietnam and the EU illustrate a common tension in the digital transformation era: how to modernise service delivery without marginalising those who cannot, or choose not to, go online. In neither jurisdiction is there an explicit, enforceable ‘right to remain offline,’ yet both have acknowledged in principle the importance of inclusion. Vietnam’s digital strategies and the EU’s digital principles each invoke the mantra of leaving ‘no one behind.’ However, these lofty commitments have not crystallised into concrete legal entitlements to analogue services. Instead, the prevailing approach has been ‘digital-by-default’ in practice. This creates similar risks in both contexts: individuals with low digital literacy (disproportionately older adults) face indirect discrimination as public services migrate online. The result is an implicit systemic bias, sometimes termed *digital ageism*, in which policies assume universal tech-savviness, thereby disadvantaging those who are less connected.

Despite these shared challenges, Vietnam and the EU differ markedly in their regulatory philosophies. Vietnam’s approach is top-down and enforcement-driven. The government’s ambitious National Digital Transformation Programme and related mandates have aggressively pushed citizens and agencies onto e-platforms. Nowhere do Vietnamese laws (such as the Law on E-Transactions 2023 or the Law on the Elderly) guarantee a choice to use paper or face-to-face channels. The emphasis is overwhelmingly on compliance with the digital shift, not on accommodating digital holdouts. Vietnam’s strategy, while successful in rapidly digitising services, tends to treat non-digital access as a temporary crutch rather than a right. As a result, older people in Vietnam often rely on family or community help to navigate e-government, and pernicious stereotypes (e.g. that the elderly are ‘too old to learn’ technology) persist. The lack of enforceable offline options means that the principle of equality in Vietnam’s Constitution is not fully realised in practice. A ‘two-tier society’ is

55 Kuźelewska, Tomaszuk and Malinowski, ‘The Elderly Digital Divide’ (n 15).

emerging, divided by digital ability, with those remaining offline at risk of becoming second-class citizens in their access to services.

The EU's approach, by contrast, is multi-level and rooted in soft-law commitments, with variability across Member States. At the EU level, policy frameworks chart a bold digital future (e.g., the Digital Compass 2030 target of 100% of key public services online), tempered by high-level principles of inclusion. The 2022 *European Declaration on Digital Rights and Principles* proclaims a human-centric digital transition that 'leaves no one behind' and affirms the importance of user autonomy. Notably, it emphasises *freedom of choice* in the digital environment, implicitly supporting the idea that people should not be forced online. However, these EU proclamations stop short of creating any justiciable right to offline access. Binding EU law in the digital realm facilitates digital-by-default interactions but does not require governments to maintain parallel paper or in-person services. The European Commission has reassured, in policy documents, that 'public services will always be accessible in person', underscoring a *duty to accommodate* those who are not online. However, this remains a political promise rather than an enforceable guarantee. In practice, the extent of an EU citizen's 'digital choice,' the ability to interact offline, depends on national and local implementation. This soft-law, decentralised approach means that some jurisdictions have pioneered robust safeguards, while others lag behind.

Notwithstanding differences in governance style, the implications of digital-by-default policies in both contexts converge on several points, as follows:

1) *Autonomy*

When public services require digital interaction by default, individuals effectively lose a measure of personal autonomy;⁵⁶ the freedom to decide how to engage with government or essential services. Both Vietnam and EU member states rhetorically support user autonomy (the EU explicitly frames it as a principle). However, the current trajectory often forces a binary choice: get online or get left out.

2) *Equality and Non-Discrimination*

In both jurisdictions, formal equality rights exist (Vietnam's Constitution guarantees equality; the EU Charter and national laws prohibit age and disability discrimination), but *substantive* equality is at stake if vulnerable groups cannot access digital services on equal terms. *Indirect discrimination* arises when a neutral policy like online-only administration disproportionately harms certain groups,⁵⁷ e.g. older people or persons with disabilities, without reasonable justification. The concept of 'digital ageism' has

56 Michael E Milakovich, *Digital Governance: New Technologies for Improving Public Service and Participation* (Routledge, 2012) doi:10.4324/9780203815991.

57 Malin Roiha, 'Beyond the Screen. Digital Realities and Embodied Harm in the Experiences of Gender-Based Online Hate Speech' (PhD thesis, Universitat de Barcelona 2024).

entered public discourse in Europe to describe systemic bias against older adults in tech initiatives, and Vietnam's experience shows a similar pattern of older persons being inadvertently sidelined by tech-centric reforms.

3) *Access to Services and Justice*

Perhaps most critically, the rights to access public services and to seek justice are on the line. If court systems, social security, healthcare, or administrative processes default to electronic form, those without digital access face barriers in exercising fundamental rights. Both contexts reveal that the absence of offline avenues can translate into real-world exclusion: an elderly Vietnamese citizen missing out on welfare benefits because she cannot navigate an e-form, or a pensioner in an EU country unable to renew an ID or file a legal claim. After all, the process has gone online-only.

Such scenarios undermine the universality of public services and access to justice, calling into question whether the state is meeting its obligation to all citizens. Ultimately, the comparative lesson is clear: digital transformation without sufficient safeguards for offline access can erode core legal values.⁵⁸ To avoid this, both Vietnam and the EU must balance efficiency with inclusivity, ensuring that technological progress does not come at the expense of the rights and dignity of the offline population. The drive to modernise should be accompanied by a commensurate commitment to digital inclusivity by design, so that 'e' does not inadvertently stand for *exclusion*.

7 CONCLUSION AND RECOMMENDATIONS

7.1. Key Findings

This comparative study confirms the central claim that safeguarding the right to remain offline is essential to rights-respecting digital governance and to equal access to justice and public services in the digital age. The analysis clarifies the dual nature of the right to remain offline, as an autonomy-based freedom and as an enabling guarantee for the exercise of other rights. The right to remain offline should be conceptualised in both its independent and enabling dimensions (Section 3). As an independent right, it protects personal autonomy and freedom from digital coercion; as an enabling guarantee, it functions as a practical condition for the effective enjoyment of other rights (e.g., access to public services and justice, equality and non-discrimination, privacy), particularly where digital-by-default designs create barriers.

Vietnam's state-driven digitisation and the expansion of e-transactions and digital identification facilitate service modernisation, but the current legal framework provides no explicit entitlement to offline access (Section 4). Mandates such as e-ID account verification,

58 Müller (n 43).

even in ostensibly in-person procedures, and local 'paperless' pilots illustrate how digitalisation can translate into de facto compulsion, with older persons facing disproportionate hurdles and heightened risks of indirect discrimination and digital ageism. A key legislative implication is the need for an explicit 'choice of service methods' clause (in the Law on the Elderly 2009 and/or the Law on Electronic Transactions 2023) backed by equivalence and assisted-access duties. On the other hand, EU policy instruments articulate inclusion and freedom of choice, but binding EU law still does not codify a justiciable right to remain offline; protection therefore remains uneven and mediated by Member State implementation (Section 5). EU accessibility instruments, including the European Accessibility Act, strengthen accessibility of certain products and services and can reduce exclusion. However, they do not, by themselves, guarantee analogue alternatives or protect purely preference-based offline choice.

Despite different institutional architectures, both legal orders face the same structural risk that substantive equality and effective access to justice can be eroded when offline alternatives are not legally secured and practically usable (Section 6). Effective safeguards require multi-channel duties, *ex ante* assessment of exclusion risks, accessibility-by-design, and accountability mechanisms (complaints, review, and remedies).

7.2. Consolidated Recommendations

Based on the comparative findings and emerging best practices, the following consolidated recommendations aim to entrench meaningful protection for offline access while preserving the benefits of digital innovation:

1) Enshrine offline access in law.

Legislators should formally recognise a legal entitlement to access essential public services and courts through non-digital channels. This may be achieved through statutory amendment or constitutional clarification that no person shall be disadvantaged because they interact with public authorities in person, by post, or through other offline means. In Vietnam, this could be operationalised by amending the Law on the Elderly 2009 (or the Law on Electronic Transactions 2023 and its implementing acts) to insert an explicit 'right to choose service methods' clause for essential public services and justice-related procedures, coupled with a rule that offline users must not be disadvantaged in legal effect, timeliness, or procedural treatment.

2) Mandate multi-channel service delivery ('digital by default, not digital only').

Public bodies should be legally required to provide multiple access channels for key services, online, in-person, telephone, and paper, at least for essential functions (social security, healthcare, identity services, courts, and core administrative procedures). Multi-channel obligations should include: clear public communication of offline options; equivalence in legal effect and timeliness; and monitoring through audits and administrative oversight.

Where private actors deliver services that are effectively indispensable for daily life (e.g., banking, utilities, transport), regulators should also consider minimum multi-channel expectations to avoid ‘digital-only’ exclusion by market design.

3) Introduce Digital Inclusion Impact Assessments.

Before adopting ‘paperless’ reforms or moving services to online-only platforms, authorities should conduct structured assessments to identify risks of exclusion or indirect discrimination, especially for older people, persons with disabilities, rural residents, and those with low literacy or limited connectivity. If risks are identified, implementation should be contingent on mitigation measures (offline channels, assisted services, simplified user journeys, phased rollouts). Impact assessments should explicitly consider both capability-based barriers and legitimate preference-based offline use (including privacy and security concerns), since the right to remain offline protects autonomy as well as vulnerability.

4) Combat digital ageism and build an inclusion culture.

Digital transformation policies should explicitly recognise the risk of digital ageism and counter it through training, institutional incentives, and service design. Front-line staff should receive training in accessibility and respectful assistance, ensuring offline citizens are treated as equal users rather than burdens. Digital platforms should be developed using co-design methods that involve seniors and low-skill users, improving usability and reducing exclusion by design. Public literacy campaigns should promote intergenerational support and normalise the idea that choosing offline is legitimate, not a failure to modernise. In the EU context, these complement (but go beyond) accessibility compliance under instruments such as the European Accessibility Act, because even fully accessible digital systems may still leave a segment of the population with legitimate reasons to choose offline interaction.

In conclusion, the Vietnam-EU comparison demonstrates that the right to remain offline merits serious legal recognition and practical protection. Safeguarding this right does not hinder progress; it aligns digital transformation with foundational commitments to justice, equality, and human dignity. A balanced approach, combining enforceable offline entitlements, multi-channel delivery, impact assessment, procedural safeguards, cultural change, and sustained support, offers a credible pathway for both Vietnam and the EU to modernise while ensuring that the digital transition genuinely leaves no one behind. Recognising its dual nature, both autonomous choice and a guarantee for other rights, helps to frame offline access as a permanent element of rights-based digital governance, not merely a transitional exception.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

ПРАВО ЗАЛИШАТИСЯ ОФЛАЙН В ЕРУ ЦИФРОВОЇ ТРАНСФОРМАЦІЇ: ПОРІВНЯЛЬНЕ ДОСЛІДЖЕННЯ В'ЄТНАМУ ТА ЄС

Фук Г. Дао

АНОТАЦІЯ

Вступ. Цифрова трансформація дедалі більше змінює надання державних послуг та правосуддя, проте реформи «цифрового режиму за замовчуванням» можуть призвести до ситуацій, коли доступ стає залежним від обов'язкової онлайн-активності. У цій статті розглядається право залишатися офлайн, що виникає та розуміється як свобода людини не бути змушеною використовувати інтернет-технології для здійснення прав або виконання повсякденних обов'язків, а також аналізується його нормативна основа в автономії, рівності та недискримінації, з особливим акцентом на літніх людях та ризики цифрового ейджизму. У дослідженні порівнюється швидка, державна цифровізація В'єтнаму з еволюційними стандартами Європейського Союзу щодо цифрової інклюзії та «цифрового вибору».

Методи. У цій статті використовується якісна доктринальна та функціонально-порівняльна методологія. Вона поєднує доктринальний аналіз правових текстів з функціональним порівнянням того, як В'єтнам та правовий порядок ЄС вирішують питання доступу до державних послуг та правосуддя в межах реформ «цифрового режиму за замовчуванням». У дослідженні аналізується законодавство, політичні інструменти та (де доступно) адміністративні рекомендації, а також відповідні наукові та інституційні звіти. Соціально-правові висновки використовувалися лише для контекстуалізації на основі кабінетного аналізу, який спирався на наявну літературу та опубліковані докази; не було проведено жодного оригінального емпіричного дослідження (опитування чи інтерв'ю).

Результати та висновки. Аналіз показує, що правова архітектура В'єтнаму значною мірою сприяє електронним транзакціям та цифровій ідентифікації, але не надає чіткого права на доступ офлайн. Обов'язкова перевірка облікових записів електронних ідентифікацій навіть для «офлайн» процедур та місцевих пілотних проектів «без паперової документації» ілюструє, як цифровізація може перетворитися на фактичний примус, коли люди похилого віку непропорційно користуються ключовими платформами, що підвищує ризики непрямой дискримінації та цифрового ейджизму. У ЄС політичні інструменти наголошують на інклюзії та свободі вибору, але обов'язкове законодавство ЄС не кодифікує право, яке можна захистити в судовому порядку офлайн; тому захист залишається нерівномірним і здебільшого залежить від впровадження державами-членами. Порівняльне обговорення показує, що, незважаючи на різні стилі регулювання, обидва контексти стикаються зі спільним ризиком: руйнуванням суттєвої рівності та ефективного доступу до правосуддя, коли офлайн-альтернативи не захищені юридично. У статті було зроблено висновок, що захист доступу офлайн слід розглядати як ключову умову цифрового управління, що поважає права, і рекомендовано: (1) закріплення доступу офлайн у законодавстві; (2) обов'язкове багатоканальне надання послуг; (3) впровадження оцінок впливу цифрової інклюзії; та (4) протидія цифровому ейджизму за допомогою інклюзивного проектування послуг, навчання та механізмів допоміжного доступу. Це додатково пояснює подвійну природу права залишатися офлайн: як свободи, що ґрунтується на автономії, та як гарантії, що забезпечує ефективне здійснення інших прав.

Ключові слова. Право залишатися офлайн; цифрова трансформація; цифровий вибір; доступ до державних послуг; цифрова ізоляція; ейджизм; конфіденційність; порівняльне право ЄС та В'єтнаму.

TÓM TẮT BẰNG TIẾNG VIỆT*

Bài báo nghiên cứu

QUYỀN ĐƯỢC NGOẠI TUYỂN TRONG KỶ NGUYÊN CHUYỂN ĐỔI SỐ: MỘT NGHIÊN CỨU SO SÁNH GIỮA VIỆT NAM VÀ LIÊN MINH CHÂU ÂU

Đào Gia Phúc

TÓM TẮT

Bối cảnh: Chuyển đổi số đang ngày càng tái định hình việc cung cấp dịch vụ công và tư pháp. Tuy nhiên, các cải cách theo mô hình “số hóa mặt định” có thể tạo ra rào cản tiếp cận các dịch vụ này khi bắt buộc người sử dụng phải thực hiện, thao tác trên nền tảng số. Bài viết này phân tích quyền được ngoại tuyến, được hiểu là quyền tự do của cá nhân không bị buộc phải sử dụng các công

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nghe dựa trên nền tảng internet để thực hiện quyền hoặc hoàn thành các nghĩa vụ thường nhật. Nghiên cứu thực hiện phân tích các nền tảng chuẩn tắc của quyền này, bao gồm tự chủ cá nhân, bình đẳng và không phân biệt đối xử, với sự chú ý đặc biệt đến nhóm người cao tuổi cũng như nguy cơ của sự phân biệt tuổi tác trong môi trường số. Nghiên cứu so sánh giữa Việt Nam và Châu Âu trong bối cảnh số hóa đang diễn ra nhanh chóng và do nhà nước dẫn dắt tại Việt Nam với các tiêu chuẩn đang được phát triển tại Liên minh châu Âu về bao trùm số và “quyền lựa chọn số”.

Phương pháp: Bài viết áp dụng phương pháp nghiên cứu định tính kết hợp giữa phân tích học thuyết pháp lý và so sánh luật học. Nghiên cứu kết hợp phân tích các văn bản pháp luật với việc so sánh cách thức hệ thống pháp luật của Việt Nam và EU giải quyết vấn đề tiếp cận dịch vụ công và tư pháp trong bối cảnh cải cách “số hóa mặc định”. Các nguồn tài liệu được phân tích bao gồm luật, chính sách và các văn bản hướng dẫn thi hành, cùng với các công trình học thuật và báo cáo chính sách liên quan. Các phân tích xã hội – pháp lý được sử dụng nhằm cung cấp bối cảnh dựa trên các tài liệu đã công bố; nghiên cứu không tiến hành khảo sát hay phỏng vấn thực nghiệm.

Kết quả và Kết luận: Phân tích cho thấy khuôn khổ pháp lý của Việt Nam tạo điều kiện thuận lợi cho các giao dịch điện tử và định danh số, nhưng chưa có quy định rõ ràng bảo đảm quyền tiếp cận dịch vụ theo hình thức ngoại tuyến. Việc yêu cầu xác thực tài khoản định danh điện tử ngay cả đối với các thủ tục ngoại tuyến, cùng với các mô hình “không giấy” ở cấp địa phương, cho thấy quá trình số hóa có thể dẫn tới sự bắt buộc trên thực tế. Người cao tuổi gặp nhiều khó khăn trong việc sử dụng các nền tảng số quan trọng, làm gia tăng nguy cơ phân biệt đối xử gián tiếp và phân biệt tuổi tác trong môi trường số. Trong khi đó, tại EU, các công cụ chính sách nhấn mạnh tính bao trùm và quyền tự do lựa chọn, nhưng luật EU hiện hành chưa ghi nhận một quyền ngoại tuyến có thể được thực thi trước tòa; do đó mức độ bảo vệ còn không đồng đều và phụ thuộc nhiều vào việc thực thi của các quốc gia thành viên. Phân tích so sánh cho thấy mặc dù có khác biệt về cách thức điều chỉnh, cả hai bối cảnh đều đối mặt với một nguy cơ chung: sự suy giảm bình đẳng thực chất và khả năng tiếp cận công lý hiệu quả khi các lựa chọn ngoại tuyến không được bảo đảm bằng pháp luật. Bài viết kết luận rằng việc bảo vệ khả năng tiếp cận ngoại tuyến cần được coi là một điều kiện cốt lõi của quản trị số tôn trọng quyền con người, và đề xuất: (i) ghi nhận quyền tiếp cận ngoại tuyến trong pháp luật; (ii) bắt buộc cung cấp dịch vụ theo nhiều kênh khác nhau; (iii) áp dụng đánh giá tác động về bao trùm số; và (iv) chống lại sự phân biệt tuổi tác trong môi trường số thông qua thiết kế dịch vụ bao trùm, đào tạo và các chế độ hỗ trợ tiếp cận.

Từ khóa: Quyền được ngoại tuyến; chuyển đổi số; dịch vụ công; cản trở số; sự phân biệt tuổi tác; nghiên cứu pháp lý so sánh EU-Vietnam.