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REFORM OF LOCAL SELF-GOVERNMENT IN UKRAINE

The key directions of reform of local self-government in Ukraine – distribution of powers between them and the authorities, between the local authorities of different levels, definition of areas real bases of local self-government bodies and bodies of executive power, the usage of the values for each level of government the necessary resources and establishing the responsibility of the local authorities in front of the voters and the state are explored.

Keywords: local government, organs of local self-government, territorial government, decentralization, local community, voluntary association of local communities.

Крегул Ю., Батрименко В. Реформирование местного самоуправления в Украине. Исследованы ключевые направления реформирования системы местного самоуправления в Украине – разграничение полномочий между ними и органами исполнительной власти, между органами местного самоуправления разных уровней, определение территориальной основы органов местного самоуправления и органов исполнительной власти, определение по каждому уровню органов власти необходимого объема ресурсов и установление ответственности органов местного самоуправления перед избирателями и государством.

Ключевые слова: местное самоуправление, органы местного самоуправления, территориальная организация власти, децентрализация, территориальная община, добровольное объединение территориальных общин.

Statement of the problem. Formation of real local self-government that would be based on the principles of the European Charter of local self-government is one of the most important and complex tasks of development of Ukraine as a democratic state. Without reform of financial authorities and the implementation of decentralization processes one cannot overcome the negative processes in the socio-economic and cultural development of the communities and regions to provide a substantial increase in the level and quality of life of most of the citizens of Ukraine. Only changing the paradigm of managing state, the consistent conduct of the reform of local self-government, territorial organization of power in Ukraine, improvement

of the existing management local system, the expansion of the powers of local self-government bodies will contribute to building local governments based on the principles of democracy.

Analysis of recent research and publications. A wide range of works of Ukrainian scientists is devoted to the problem of formation, development and reform of local self-government in Ukraine, among which the publications of V. Averianova [1], M. Bajmuratova, I. Balabanov [2], V. Bordenuka [3], V. Kravchenko [4], M. Puhtins'kogo [5], S. Seriogina [6] etc. can be pointed out. At the same time an urgent task remains the determination of the key directions of formation of effective local self-government and local organization of power to meet the interests of citizens in all spheres of life on the relevant territory, matching the interests of the state and territorial communities.

The purpose of the article is to analyze the theoretical principles and main directions of the reform and decentralization of power in Ukraine.

Materials and methods. Methodological base of this article is created by a system of general scientific, philosophical and specially-legal methods of digital data which provides the achievement of the purpose.

Results of the research. Today, Ukraine is at the stage of implementation of the European strategy. The purpose of the Ukrainian state has two interrelated objectives, on the one hand, integration into European political and socio-economic space, and on the other is the development of effective models of public authorities at the national and regional levels.

An important element of the political system of a society is the local government, which along with the interests of the individual and the interests of the state, provides recognition and guarantee of the local and regional interests, the interests of the local communities concerned with solving issues-State ensuring the population. Adopted by the 1996 Constitution of independent Ukraine acknowledged the General principles of local self-government (article 140–146), which, unlike the previous period, has been separated from the State Government [7]. These constitutional principles were detailed in the law of Ukraine «About local government in Ukraine» dated May 21, 1997. For example, a specific law found fixing as the concept of system of local self-government, and the list of its ingredients. The system of local self-government included the following elements:

- local community;
- village, settlement, city council;
- village, township, city mayor;
- district and regional councils that represent the common interests of territorial communities of villages, cities;
- executive bodies of village, township, city council;
- bodies of self-organization of population [8].

As rightly stated in the legal literature, today local self-government in Ukraine still largely retains the decorative character. The political system of the state does not still meet the constitutional provisions and the tasks,

and functions of local government are not matched by the material and financial resources. Because this is one of the most important tasks that need to be solved in the process of reforming the political system, is the fundamental role of the institute of local self-government in the mechanism of power in organization management at all territorial levels. Its conversion from the parts of the authorities on the independent really effective tool of social control can ensure the sustainable development of local communities will create for citizens of civilized living conditions, will bring the provision of social and administrative services to the level of European standards.

Adopted by the Cabinet of Ministers of Ukraine on April 1, 2014 the concept of the reform of local self-government and territorial organization of power in Ukraine (the Concept) determines the main ways of solving the problems of the system of local self-government. Key issues that define the essence of change are: determination based on territorial basis for the activities of local self-government bodies and executive bodies; creation of appropriate material, financial and organizational conditions to ensure the implementation of local governments own and delegated powers; distribution of powers between the local governments and authorities at various levels of administrative-territorial system on the principles of subsidiarity and decentralization; maximum involvement of the population to management decision-making, promotion of the development of the forms of direct democracy [9].

After the approval of the concept for ensuring the development of the system of local government was directed the decision of the following laws of Ukraine «About the cooperation of local communities» from 17 Jun 2014 № 1508-VII, «About a voluntary association of local communities» from 5 February 2015 № 157-VII, «On the basis of state regional policy» dated 5 February 2015 № 156-VIII. Analysis of the current legislation and its application, as well as exploration of the foreign experience of the state building enables to highlight some of the directions of development and improvement of local government. Challenges can solve only the structures where there is no monopoly of authoritarian, but where is the multacentral division of powers.

Excessive centralization, which is characterized by the appropriate vertical of power contradict the contemporary social dynamics in general. The process is not only making, but also implementing the solutions becomes too cumbersome. While retaining the ability to solve routine problems, system as a rule inadequately responds to new problems. Linear vertical generates the absolute dependence of the management structures of the higher links. Decisive importance is not the «done thing», and the ability to «apply» it management, while simultaneously minimizing the value of the evaluation of the results of the activities below. Because decentralization within the system of public management has significantly strengthen its self-organized potential, which, in turn, will allow much more efficiently and quickly respond to the needs of society and the various influences of

the environment. In cases where the state in any form, in different times, for those reasons, creates obstacles in the development of amateur local communities or otherwise prevents the manifestations of self-organization in the form of local social systems, self-organization as an integral (objective) the property of the society can find the «exit» in the formation of shadow (illegal) unities, criminalization of society, and spreading revolutionary or other destructive moods. As a result, the expulsion by the Council of the community or the murder of the Princes, pugatchevshina, narodnitstvo, students' and miners' hiking in the capital, nostalgia for the past, socio-political apathy, the criminalization of «municipal economy» and the entire state apparatus [10, p. 114]. Therefore, the activation of the development of local self-government is a mechanism of accelerated social development owing to the growth of self-organization processes in the state.

Decentralization and the autonomy of the local authorities cannot be regarded as an absolute benefit in terms of democracy. Centralization of power also has some positive value, it provides the advantages of a single control, it is free from local political disputes, and, as Vedel stated, «abuse of power by the rural petty tyrants» [11]. In some cases, centralization allows you to better coordinate local services and reduce the cost of services that provide the local authorities. Therefore, when carrying out the reform in European countries, decentralization and centralization are not given as diametrically opposed to the concept of the organization of the local authorities.

The main problem when conducting reforms is not to make a choice between decentralization and centralization, but to stand required and appropriate balance between them, which would be adequately to the real socio-economic and political conditions of a particular country. An important trend in the development of local self-government in Europe is the consolidation of administrative-territorial units, reduction of a number of local authorities, creation of different regional forms of management. These processes are aimed at forming a sufficient territorial, demographic, material and financial base for keeping modern utilities and other municipal services.

At the end of the 1980s – beginning of the 1990s in Ukraine, there were 25 areas, 469 districts, 434 towns, including 2 cities (Kyiv, Sevastopol) of the republican subordination, 820 urban villages, and 8805 village councils [12].

Since 1991, the number of rural population is diminished to 2.5 million people and the number of rural settlements – 348 units. At the same time the number of village councils increased to 1067. In Ukraine about 12 thousand local communities were established, in over 6 thousand communities the number of residents is less than 3 thousand persons, from 4809 communities – less than 1 thousand persons, and in 1129 communities – less than 500 people, most of whom are not established according to legislative regulation of executive bodies of local councils, there is no budgetary institutions, utilities, etc. Local authorities of such communities are not actually able to given them by the law of the authority [15, 16].

By adopting the law «On voluntary association local communities» from 5 February 2015 № 157-VII [14], parliament opened the way for the beginning of the consolidation of communities able through its own taxes and fees to ensure the provision of public and administrative services, which are required by residents of the communities, and qualitatively performs the delegated state authority with public funds.

On the day of the current local elections in Ukraine namely: October 25, 2015 took place the first elections of the heads of communities and members of Councils in 159 united local communities.

According to the Association of Ukrainian cities, the largest of the communities, where the first elections were held, created in Ternopil (26), Khmelnytsky (22), Lviv (15) and Dnipropetrovsk (15). It is interesting that the position of the heads of the new united communities ran 141 incumbent chairman of the centers around which hosted the Association of communities, 105 of them (73 %) are elected as the Heads of newly formed united communities [15]. The local authorities of united communities today have a number of important tasks – from defining the strategy for the development of the territory to ensure the provision of services of new quality and growth of well-being of each resident. Material and financial basis of local self-government is changed. Each community has its own municipal (communal) property that is required for the functioning of vital public services. Municipalities widely use economic management methods – local taxes, licensing, contracts to perform municipal functions to private firms, etc.

In many countries the problem of forming a proper financial basis of local self-government are defined in the interpretation of cooperation between individual municipalities (cooperative approach). Such cooperation is performed by the conclusion of specific agreements on the provision of services and joint activities in certain areas between the various agencies and levels of Government. All of this contributes to the increasing in the revenue part of local budgets, the development of the municipal economy and stimulation of the entrepreneurship.

While maintaining a leading influence of representative bodies of local self-governance (councils) to address local affairs gradually increases the value of the executive office, the growth of role of the project coordinator officials grow based on the increasing requirements to the level of professional competence of persons claiming to take positions in local government. Strengthening of the executive bodies can take place in different forms. In particular, in determining the structure and status of the local self-government the increasing amount of authorities established by the law for the executive authorities. Bodies voluntarily transfer part of its functions to the executive bodies (temporarily or permanently).

Among the important tasks of reform of local self-government is a foundation of real and effective system of direct municipal democracy.

As the concept of reform of local self-government and territorial organization of power in Ukraine emphasize , approved by the Cabinet of

Ministers of Ukraine dated April 1, 2014 [9], efficient and rapid solution requires, in particular, the problem of «underdeveloped forms of direct democracy, the inability of members of the communities of solidarity action aimed at the protection of their rights and interests, in collaboration with local authorities and local bodies of executive power and the achievement of the common goals of community development». So one of the ways and methods to address this and other problems are «in. .. the maximum involvement of the population to the adoption of the governance solutions, promotion the development of the forms of direct democracy».

The individual documents suppose citizens' participation in public management in Ukraine. You can select direct form – public discussion and indirect – via the public opinion of the inhabitants of the territory. Public discussion involves organizing and holding public hearings, meetings with the public; conferences, seminars, forums, round tables, meetings, public reception rooms; television or radio debates, discussions, dialogues, interviews and other transmissions of television and radio broadcasting; web conferences, electronic consultation; telephone hot lines, interactive communication in other modern forms.

In the European Union one of the most common forms of community involvement in the formation of the development strategy is a public hearing. With their help, to discuss important issues of regional policy and solve the main problems of local self governance in attracting broad segments of the population and professionals are participated. In this way the quality of the two-way communication between the authorities and the public is provided and supported, because of the existing representation of the interests of all social groups of citizens, this significantly helps in the implementation of the community of the following controls.

In Ukraine, public hearings are used in extreme cases. This tendency has several explanations:

- weak material and technical base of villages, towns;
- lack of awareness;
- imperfection of the technological process of making decisions by conducting public hearings;
- most charters local communities do not have a clear definition of the mechanism of implementation in life results of community hearings, which leads to the absence of the positive experience of the impact of public on the formation of policy [16, s. 60].

In Ukraine there is a certain experience of local self- government of population in the processes of development and adoption of the most important decisions concerning the life of the local community. It is through the involvement of citizens in the process of interaction with authorities and local authorities one can ensure a real impact on the decision-making process, which can significantly improve the livelihoods of the communities. In this process local governments directly take part. However, the above has not yet become a constant practical component for all local governments

in our country. The main problems concerning public participation in local government in the cities of Ukraine, according to the researchers are the following:

- the public's lack of confidence in their own ability as the subject of cooperation with local governments;
- underestimation by the population of the public associations as boards of forms for efficient interaction with bodies of local self-governance;
- ignorance of the public opinion when making decisions landing by the persons of bodies of local self-government;
- improper quality of awareness about the activities of local authorities, including the aims off spending taxpayers' money;
- passivity of the citizens to information about the activity of the local self- government that leads to incomplete and uncorrected understanding by them the state of affairs in the local politics;
- inefficient using of bodies of local self- governance of the tools and methods of cooperation with territorial community;
- a certain distrust of the population regarding the level of the financial competence of the personal ensuring local governments [17, s. 77].

One of the most common forms of solving the problem of local level is personal contacts with some representatives of the public authorities. By means of written or oral appeals to the state bodies and their officials, and a possible solution of local problems (social acceptance, personal tricks the officials), by holding telephone consultations. The results of the claims could be developed into the proposals and recommendations for the enactment of the local government.

There are other forms of cooperation with authorities: meeting of citizens, local initiatives, advisory bodies of public control, public consultations, etc. Legislation declares a wide range of citizens' rights to ensure interaction between the authorities and the public. However, the effective implementation of these rights has become a key point in the work of organs of local self-government. The main task of the local government at the present stage of nation-building is to ensure real possibilities of each member of the local community to participate in solving all the issues of local significance, in the management of municipal property, to feel all the positive consequences of activity of self-governing bodies, aimed at the real rights, liberties, vital human needs and concerns.

Conclusion. Fixed by the Constitution of Ukraine the system areas of the local organization of power is archaic and inefficient, it does not answer the issue to the European standards and does not ensure the provision of the public administrative and social services at the appropriate level. Its improvement based on the redistribution of powers between the types of the public authority (State power and local self-government) and between the various territorial levels have to exercise by respecting the

principles of the European Charter of local self-government (1985), which was ratified by the Parliament on 15 July 1997.

The main directions of reforming local government and decentralization of power are currently defined in the concept of the reform of local self-government and territorial organization of power in Ukraine. As a result of the reform of local self-government and the decentralization of power must become the united communities, which are formed on a voluntary basis by the legislatively defined procedures with their own bodies, including the Executive Boards. In the settlements, the inhabitants of which have not received the status of territorial communities should be formed bodies of self-organization of population, the system of local self-government bodies of the respective territorial communities. The expected results of the reform of local self-government and decentralization in Ukraine are:

- creation of favourable legal environment for the widest involvement into managerial decision-making, as well as the development of the forms of direct democracy;
- implementation of standards of the quality of public services that provide public local government base and regional level, criteria for evaluation of the quality;
- stimulation of the economic development of the territories as a result of the improvement of the mechanisms of the influence of local authorities on the prioritization of local economic development;
- the strengthening of legal, organizational and financial potential of the poverty of local communities bodies of local self-government;
- formation of the effective system of territorial financial authorities of the local governments and local authorities to ensure the values of sustainable socio-economic development of their respective administrative-territorial units;
- definition of clear limits of each administrative and territorial unit, ensure the whole jurisdiction of the local government on the territory of the respective administrative-territorial unit and avoidance the presence within the territory of the community of other administrative-territorial units of the same level;
- formation of executive bodies of regional and district councils;
- change of the status of the local state administrations bodies from the general competence for the control and supervisory agencies in the system of executive power the function of coordinating the activities of territorial bodies of central executive bodies on the corresponding territory;
- provision of the distribution of responsibilities between local authorities of the base and the regional level, local administrations and territorial bodies of the central bodies of the use of appointed government.

Government support is the initial point for the creation of new territorial foundations of effective local government that has to change an outdated Soviet model. Ukraine is fated to carry out this reform to build a truly European country.

REFERENCES

1. Derzhavne upravlinnja : problemy administratyvno-pravovoi' teorii' ta praktyky / za zag. red. V. B. Aver'janova. — K. : Fakt, 2003. — 384 s.
2. Bajmuratov M., Balabanov I. Regional'na polityka derzhavy: do pytannja ontologii' ta aksiologii' vyznachennja i rozuminnja / M. Bajmuratov, I. Balabanov // Pravo Ukrai'ny. — 2014. — № 9. — S. 74–88.
3. Bordenjuk V. I. Spivvidnoshennja misceвого samovrjaduvannja ta derzhavnogo upravlinnja: konstytucijno-pravovi aspekty.: dys. ... d-ra juryd. nauk : spec. 12.00.02 / V. I. Bordenjuk; Nac. akad. derzh. upr. pry Prezydentovi Ukrai'ny. — K., 2009. — 496 s.
4. Kravchenko V. V. Problemy zakonodavchogo zakriplennja kompetencii' misceвого samovrjaduvannja v konteksti reform misceвого samovrjaduvannja v Ukrai'ni / V. V. Kravchenko // Aspekty publ. upr. — 2014. — № 11–12 (13–14). — S. 13–21.
5. Puhtyns'kyj M. Konceptual'ni, konstytucijni, polityko-pravovi zasady terytorial'noi' organizacii' publichnoi' vlady / M. Puhtyns'kyj // Pravo Ukrai'ny. — 2014. — № 9. — S. 88–93.
6. Ser'ogin S. M. Regional'ne ta municypal'ne upravlinnja / S. M. Ser'ogin // Aspekty publ. upr. — 2014. — № 5–6 (7–8). — S. 70–79.
7. Konstytucija Ukrai'ny vid 28 chervnja 1996 r. № 254k/96-VR // Vidomosti Verhovnoi' Rady Ukrai'ny. — 1996. — № 30. — St. 141.
8. Pro misceve samovrjaduvannja v Ukrai'ni : Zakon Ukrai'ny vid 21 travnja 1997 r. № 280/97-VR. — K. : Parlam. vyd-vo, 1997. — 100 s.
9. Pro shvalennja Konceptii' reformuvannja misceвого samovrjaduvannja ta terytorial'noi' organizacii' vlady v Ukrai'ni : rozporjadzhennja Kabinetu Ministriv Ukrai'ny vid 01.04.2014 № 333-r. [Elektronnyj resurs]. — Rezhym dostupu : <http://zakon2.rada.gov.ua/laws/show/333-2014-%D1%80#n8>.
10. Aktual'ni problemy stanovlennja ta rozvytku misceвого samovrjaduvannja v Ukrai'ni: kol. monogr. / V. O. Antonenko, M. O. Bajmuratov, O. V. Batanov; za red. V. V. Kravchenka, M. O. Bajmuratova, O. V. Batanova. — K. : Atika, 2007. — 864 s.
11. Admynystratyvnoe pravo Francyy. Perevod s francuzskogo / Vedel' Zh. ; Pod red. : Krutogolov M. A. ; Per. : Энтyn L. M. — M. : Progress, 1973. — 512 s.
12. Encyklopedija derzhavnogo upravlinnja u 8 t. / Nac. akad. upr. pry Prezydentovi Ukrai'ny; nauk.-red. kol. : Ju. V. Kovbasjuk (golova) [ta in.]. — K. : NADU, 2011. — T. 1: Teorija derzhavnogo upravlinnja / nauk.-red. kol. : V. M. Knjazjev (spivgolova), I. V. Rozputenko (spivgolova) [ta in.]. — 748 s.
13. Pys'mennyj I. V., Prokopenko L. P. Retrospektyva administratyvno-terytorial'nyh reform v Ukrai'ni v konteksti suspil'noi' samoorganizacii' // Aspekty publ. upr. — 2015. — № 5–6 (19–20). — S. 17.
14. Pro dobrovil'ne ob'jednannja terytorial'nyh gromad : Zakon Ukrai'ny vid 5 ljutogo 2015 r. № 157-VIII // Vidomosti Verhovnoi' Rady Ukrai'ny. — 2015. — № 13. — S. 734–740.
15. Pitnyk M. Ukrai'na: kurs na decentralizaciju / M. Pitnyk // Misceve samovrjaduvannja. — 2015. — № 12. — S. 4–7.
16. Dreshpak V. M., Lypovs'ka N. A. Zabezpechennja dialogu organiv publichnoi' vlady z terytorial'noju gromadoju : teoretychni ta prykladni aspekty / V. M. Dreshpak, N. A. Lypovs'ka // Aspekty publ. upr. — 2015. — № 5–6 (19–20). — S. 57–65.
17. Kravchenko T. A. Konstytucijne zabezpechennja bezposeredn'oi' uchasti gromadjan Ukrai'ny u miscevomu samovrjaduvanni / T. A. Kravchenko // Aspekty publ. upr. — 2015. — № 10 (14). — S. 72–81.

Креул Ю., Батрименко В. Реформування місцевого самоврядування в Україні.

Постановка проблеми. *Формування реального місцевого самоврядування, яке б базувалося на принципах Європейської хартії місцевого самоврядування, – одне з найбільш важливих та складних завдань розбудови України як демократичної держави. Без реформування місцевого самоврядування, здійснення процесів децентралізації*

неможливо подолати негативні процеси в соціально-економічному та культурному розвитку територіальних громад і регіонів, забезпечити суттєве підвищення рівня та якості життя більшої частини громадян України. Лише зміна парадигми управління державою, послідовне проведення реформування місцевого самоврядування, територіальної організації влади в Україні, удосконалення наявної системи управління на місцях, розширення повноважень органів місцевого самоврядування сприятиме побудові місцевої влади на засадах демократії.

Аналіз останніх досліджень і публікацій. Проблеми становлення, розвитку й реформування місцевого самоврядування в Україні присвячено широке коло праць вітчизняних науковців, з-поміж яких можна виокремити публікації В. Авер'янова, М. Баймуратова, І. Балабанова, В. Борденюка, В. Кравченка, М. Пухтинського, С. Серьогіна тощо. Водночас актуальним завданням залишається визначення ключових напрямів формування ефективного застосування місцевого самоврядування та територіальної організації влади для задоволення інтересів громадян в усіх сферах життєдіяльності на відповідній території, узгодження інтересів держави та територіальних громад.

Метою статті є аналіз теоретичних засад та головних напрямів реформування й децентралізації влади в Україні.

Матеріали та методи. Методологічну базу статті утворює система загальнонаукових, філософських і спеціально-юридичних методів, застосування яких забезпечує досягнення поставленої мети.

Результати дослідження. На сьогодні Україна перебуває на етапі реалізації євроінтеграційної стратегії. Метою української держави є вирішення двох взаємопов'язаних завдань, з одного боку – інтеграція у європейський політичний та соціально-економічний простір, а з другого – розбудова ефективної моделі публічної влади на загальнодержавному і регіональному рівнях.

Авторами досліджено ключові напрями реформування системи місцевого самоврядування в Україні – розмежування повноважень між ними та органами виконавчої влади, між органами місцевого самоврядування різних рівнів, визначення територіальної основи органів місцевого самоврядування та органів виконавчої влади, визначення за кожним рівнем органів влади потрібного обсягу ресурсів та встановлення відповідальності органів місцевого самоврядування перед виборцями і державою.

Висновки. Головні напрями реформування місцевого самоврядування й децентралізації влади наразі визначено в Концепції реформування місцевого самоврядування та територіальної організації влади в Україні. У результаті реформування місцевого самоврядування й децентралізації влади основою нової системи місцевого самоврядування мають стати об'єднані територіальні громади, які утворюються на добровільній основі за законодавчо визначеною процедурою з власними органами самоврядування, у тому числі виконавчими органами рад. У населених пунктах, жителі яких не отримали статусу територіальної громади, мають бути сформовані органи самоорганізації населення, які входять до системи органів місцевого самоврядування відповідної територіальної громади.

Ключові слова: місцеве самоврядування, органи місцевого самоврядування, територіальна організація влади, децентралізація, територіальна громада, добровільне об'єднання територіальних громад.