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European experience in improving public administration of the strategy for territorial communities' development in Ukraine

Experiencia europea en la mejora de la administración pública de la estrategia para el desarrollo de las comunidades territoriales en Ucrania

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Resumen

La aspiración de Ucrania de alcanzar los estándares democráticos europeos y su compromiso en virtud del Acuerdo de Asociación entre Ucrania y la Unión Europea requieren la implementación de nuevas prácticas en la interacción entre los órganos gubernamentales, los órganos de autogobierno local y los residentes locales. Estas nuevas prácticas deberían incluir instrumentos de democracia local que han demostrado su eficacia en los países de la Unión Europea. En este artículo, los autores demuestran que la descentralización en Ucrania ya ha producido numerosas historias de éxito a través de comunidades unidas y sus proyectos implementados. El crecimiento de los presupuestos locales también evidencia la efectividad de la reforma. Sin embargo, la característica principal de la descentralización en Ucrania es el cambio de mentalidad de las personas, ya que se han dado cuenta de que pueden influir en el desarrollo de sus comunidades mejor que nadie. Como resultado, la reforma se ha desplazado a un plano horizontal. Las comunidades ya no esperan decisiones desde arriba, sino que dialogan, consultan, aprenden de los logros y errores de los demás y avanzan. Actualmente, hay 368 comunidades territoriales unidas en Ucrania. Se proporciona apoyo estatal para la fusión voluntaria de comunidades territoriales. El Estado ofrece apoyo informativo, organizativo, metodológico y financiero para la unificación voluntaria de las comunidades territoriales. El desarrollo de planes de perspectiva para la formación de territorios comunitarios en las regiones de Ucrania también es parte del apoyo estatal. Las administraciones estatales regionales desarrollan planes prospectivos siguiendo la Metodología desarrollada por el Ministerio de Desarrollo Regional, Construcción y Vivienda y Servicios Comunes de Ucrania y aprobada por el Gabinete de Ministros de Ucrania. Tras las enmiendas al Código de Presupuesto, todas las preferencias financieras previstas para las comunidades territoriales recién fusionadas se otorgan al formar comunidades territoriales unidas según su plan de perspectiva. La nueva estructura administrativa y territorial debe servir como base territorial para la formación de un sistema descentralizado de gobernanza territorial, que garantice el uso más eficaz de los recursos sociales, el crecimiento económico sostenible basado en los principios del desarrollo sostenible y la mejora de las condiciones de vida de las personas. . La

lógica de un enfoque sistémico de la reforma administrativa y territorial requiere iniciar este proceso con la reforma del nivel básico: las comunidades territoriales.

Palabras clave: integración europea, administración pública, desarrollo de las REICE | 108 comunidades, descentralización, democracia local.

Abstract

Ukraine's aspiration to achieve democratic European standards and its commitment under the Association Agreement between Ukraine and the European Union necessitate implementing new practices in the interaction between government bodies, local self-government bodies, and local residents. These new practices should include instruments of local democracy that have proven successful in European Union countries. In this article, the authors demonstrate that decentralization in Ukraine has already produced numerous success stories through united communities and their implemented projects. The local budgets' growth also evidences the effectiveness of the reform. However, the main feature of decentralization in Ukraine is the change in people's mindset, as they have realized that they can influence the development of their communities better than anyone else. As a result, the reform has shifted to a horizontal plane. Communities no longer wait for decisions from above but engage in dialogue, consult, learn from each other's achievements and mistakes, and move forward.

Currently, there are 368 united territorial communities in Ukraine. State support is provided for the voluntary amalgamation of territorial communities. The state offers informational, organizational, methodological, and financial support for voluntarily unifying territorial communities. Developing perspective plans for forming community territories in Ukrainian regions is also part of state support. Regional state administrations develop perspective plans following the Methodology developed by the Ministry of Regional Development, Construction, and Housing and Communal Services of Ukraine and approved by the Cabinet of Ministers of Ukraine. Following amendments to the Budget Code, all financial preferences provided for newly amalgamated territorial communities

are granted upon forming united territorial communities per their perspective plan. The new administrative and territorial structure should serve as the territorial basis for the formation of a decentralized system of territorial governance, ensuring the most effective use of social resources, sustainable economic growth based on the principles of REICE | 109 sustainable development, and the improvement of people's living standards. The logic of a systemic approach to administrative and territorial reform requires initiating this process with the reform of the basic level – the territorial communities.

Keywords: European integration, public administration, development of communities, decentralization, local democracy.

Introduction

Protection and guaranteeing the rights and freedoms of individuals and citizens is the foundation for building a democratic state. Effective representation of citizens' interests at the local level is only possible with a developed system of local democracy. Considering the European integration processes taking place in Ukraine, the institution of local self-government, as the leading representative of territorial communities' interests, should comply with European standards.

In many European Union countries, the institution of local self-government is enshrined at the constitutional level, as provided in Article 2 of the European Charter of Local Self-Government of October 15, 1985, which states that "the principle of local self-government shall be recognized in domestic legislation and, where possible and appropriate, in the constitution."

European states' legislative and normative techniques are based on the tradition of not defining the system of administrative-territorial units at the constitutional level. However, specific provisions regarding the system of local self-government are often mentioned in the sections of the Constitution that regulate the institution of local self-government or in its general requirements.

Local democracy in the EU is based on a system of principles. They include the rule of law, legality, respect for human rights, transparency, accountability, responsibility, and subsidiarity. Moreover, subsidiarity is one of the vital organizational principles of local self-government in EU member states. The European Charter of Local Self-Government lays the foundations for this principle in its preamble, emphasizing the importance of unity among its members in preserving and embodying the ideals and principles shared by European states. REICE | 110

The Charter aims to protect and strengthen local autonomy in European countries by obliging the parties to apply basic rules that guarantee the political, administrative, and financial independence of local authorities from state power.

Analyzing the provisions of the European Charter of Local Self-Government, the authors can distinguish several vital principles of building a democratic society at the local level. First, the participation principle reflects citizens' right to influence decision-making. The principle of accountability is closely linked to the decentralization of power. Finally, the principle of autonomy entails a wide range of capacities for local self-government bodies. The Concept of Reforming Local Self-Government and Territorial Organization of Power in Ukraine, approved by the Cabinet of Ministers of Ukraine on April 1, 2014, states that the reform of local self-government and territorial organization of power should be carried out under the following principles:

- the rule of law, openness, transparency, and public participation; the universality of local self-government;
- subsidiarity;
- accessibility of public services; accountability and subordination of local self-government bodies to the territorial community;
- subordination of local self-government bodies to the executive authorities in matters of compliance with the Constitution and laws of Ukraine;

- legal, organizational, and financial capacity of local self-government; state support for local self-government;
- the partnership between the state and local self-government;
- sustainable development of territories.

Based on these findings, it can be concluded that the Ukrainian system of local self-government is undergoing reform to align it with European standards. As stated in the 2014 Concept, Ukraine has established constitutional principles of local self-government, ratified the European Charter of Local Self-Government, and adopted a series of basic regulatory acts that provide the legal and financial basis for the functioning of local self-government bodies. However, it is worth emphasizing that the effective functioning of the institution of local self-government is only possible when it is built on the principles of local democracy, ensuring the unity of this system.

The article aims to analyze Ukraine's administrative and territorial reform, identify problems in organizing the territorial management system, and determine measures for developing amalgamated territorial communities.

Literature Reiew

Scientists argue that decentralizing public administration in modern Ukraine is very challenging. One of the main reasons for this is significant resistance from the population towards reforms. In addition, the low level of trust among citizens reduces the effectiveness of local government activities (Tkachuk, A, 2015), (Petryshyna, M. O., Henkul, Yu. V., 2019), (Milbradt, G., 2014).

The issues of the formation and development of local self-government in addressing legal, organizational, personnel, financial-economic, and social matters have been discussed in scientific works. At the same time, significant scientific achievements of experts cannot be considered definitively completed since the system of local self-government in Ukraine is in a state of dynamic development. Furthermore, with the law's adoption of voluntary

amalgamation of communities, many new questions have arisen in theory and managerial practice. All this necessitates conducting more profound scientific research in this direction (Kuibida, V. S., 2017), (Krat, M., Sofij, O., 2017), (Kamardina, Yu. V., 2020). Many researchers emphasize that the experience of EU member states should become the leading source for the conceptual understanding of tasks faced today by the domestic political elite, the public, and public administration bodies regarding the development of local self-government in Ukraine. Unfortunately, over the years of economic reforms in Ukraine, there have been no significant and fundamental changes in the state administration and territorial management system. Even decentralization of power primarily (ironically, though) has an administrative character. It is implemented in many regions in a top-down manner, and so on (Iemelianova, A., Dovbenko, M., Zavadaska, P, Khutkyy, D., Loboyko, S, 2017), (Iemelianova, A. 2020), (Bezzub, I., 2021), (Akimov, A., 2018), (Blondal Jon R. and Michael Ruffner, 2004).

Materials and Methods

The study employed various scientific methods, including comparative, comparative-contrastive, analytical, historical, and others. The methodological recommendations for developing, approving, implementing, monitoring, and evaluating development strategies for territorial communities, supported by the Order of the Ministry of Regional Development of December 21, 2022, No. 265, served as the basis. These recommendations establish general requirements for the structure, formatting, organization of the development process, approval, monitoring, and evaluation of the implementation of development strategies for territorial communities, and action plans. These requirements correspond to European principles in strategic planning for regional development. The developed recommendations will assist local self-government bodies in planning the long-term development of communities since developing a high-quality and effective strategy is crucial for creating a favorable socio-economic environment in their territories. Moreover, it is imperative during the war, which involves extensive infrastructure, economic damage, and mass displacement of population and businesses from conflict areas.

Furthermore, the methodological recommendations aim to establish a unified approach for local self-government bodies in formulating strategic documents and implementing targeted budgetary policies for territorial communities. The recommendations were REICE | 113 developed with expert support provided by development partners within the framework of ongoing international technical assistance projects and endorsed by nationwide associations of local self-government bodies in Ukraine.

Result and discussion

The model of public administration that has evolved in Ukraine was based on the dominance of state authorities in addressing issues of local self-government and territorial development, with little attention given to decentralization. Although the need to build a new model of territorial power organization and administrative and territorial structure has been repeatedly raised in the political and expert environment, most of these attempts have stalled at the stage of conceptual justifications or draft laws. Meanwhile, problems related to the imperfections of the administrative and territorial structure and territorial management have remained the same but have increased over the years.

These issues have particularly intensified at the lowest basic level - in villages, towns, and small cities - where local self-government is primarily incapable of stimulating economic activity and creating a favorable environment for people's livelihoods. The new administrative and territorial structure should serve as the basis for building a new model of territorial governance based on the principles of decentralization, subsidiarity, balancing national interests with the interests of regional populations and territorial communities, widespread local self-government, and the capacity and autonomy of territorial communities in decision-making.

The main objectives of the decentralization reform include achieving an optimal distribution of powers between local self-government bodies and executive authorities based on subsidiarity and creating viable territorial communities as the basic unit of the administrative and territorial structure. As part of the reform, cooperation, and voluntary

amalgamation of territorial communities should be fundamentally new for Ukraine. The logic of a systemic approach to reforming the administrative and territorial structure requires initiating this process by improving the basic level - the territorial communities.

Local self-government reform aims primarily to enable it to address local issues through its resources independently. It involves empowering territorial communities with significant resources and mobilizing their internal reserves. REICE | 114

Article 1 of the Law "On Local Self-Government in Ukraine" defines a territorial community as a population residing within the boundaries of a village, town, or city. They are independent administrative and territorial units or voluntary associations of residents of several villages or towns with a common administrative center, a rural council. With the adoption of the Law of Ukraine "On Voluntary Amalgamation of Territorial Communities" and the Methodology for the Formation of Capable Territorial Communities in the country, including its regions, significant and responsible work on their implementation has begun. The definition of "capable territorial community" is provided in the government methodology for forming capable territorial communities. It refers to territorial communities of villages (towns, cities) that, as a result of voluntary amalgamation, are capable of independently or through certain bodies of local self-government ensuring a proper level of service provision, particularly in the fields of education, culture, healthcare, social protection, housing, and communal services. In addition, they consider personnel resources, financial support, and the development of infrastructure corresponding to the respective administrative-territorial unit.

Functions of territorial communities are the main directions and types of municipal activities that express the will and interests of local residents and ensure their relations with the state and its authorities. The scope of territorial communities' functions coincides with the range of functions of local self-government. Increasing the efficiency of state administration can be achieved through an adequate distribution of powers between the bodies of state power and local self-government regarding implementing their public and economic functions in respective territories. Local bodies of state power should address regional and local matters within the framework of the Constitution and laws of Ukraine,

ensuring the implementation of nationwide programs. The Law "On Local Self-Government in Ukraine" is the main legislative act specifying local self-government's constitutional norms. However, there are specific problems in organizing the system of territorial management, such as:

- The legislative provision on local self-government as the "guaranteed right of a territorial community to decide local matters" in practice results in uncertainty of community rights and fragmented powers of local self-government bodies. Consequently, this leads to deepening conflicts of interest between local self-government bodies at different levels and between self-government and state authorities at the regional and district levels. Such contradictions complicate the establishment of effective interaction between local authorities and self-government and hinder the effective management of socio-economic development in the respective territory.
- The lack of clear demarcation between the powers of local state administrations and local self-government bodies (according to the law, 76 powers are duplicated) prevents the construction of an effective mechanism for monitoring their implementation.
- The absence of collective responsibility for territorial development and low mutual trust between civil society organizations and government bodies. The transparency of executive and local self-government activities, the complexity of performing the function of public control over their activities, and the insufficient involvement of members of territorial communities in the decision-making process hinder practical cooperation between public authorities and civil society institutions. As a result, rational ideas from an active part of the community often fail to reach the addressee capable of implementing them and also encounter resistance from local officials.
- The lack of regulation regarding ownership of land by territorial communities. Consequently, rural, town, and city councils' power in managing land resources is limited to the boundaries of populated areas, covering only 12% of the country's territory. As a result, local self-government bodies are deprived of the opportunity to plan territorial development effectively, and communities cannot advocate for their interests in decision-making processes regarding land resource utilization.

Reforming the territorial organization of power based on decentralization is one of the critical directions of systemic social transformations in Ukraine. The development of the state is only possible with the development of regions, which depends on the strength of regional governance and its provision of social services to the population. Recognizing the importance of this issue, at the present stage of development, all branches of power raise the question of the need to improve the theory and practice of modern statehood, driven by transformations in the political system of society, administrative and territorial and regional reforms, and the implementation of constructive social partnership between the center and the territories. REICE | 116

In recent decades, European countries have been characterized by decentralization. Much attention is paid to empowering local self-government bodies. Compared with the Kingdom of Denmark (hereinafter referred to as Denmark), Ukraine is relatively young in these matters. Currently, Danish municipalities have the highest authority in areas that are predominantly state-controlled in most countries. Expanding the scope of local self-government powers is associated with authorities' desire to address local issues "closer to the people." Article 82 of the Constitution of Denmark grants municipalities the right to independently manage their affairs, as provided by law, under state supervision.

The structure of Danish local self-government includes 98 municipalities and 5 regions. Each municipality and region has a respective municipal or county council that makes decisions. Councilors are elected for a term of 4 years through popular vote. Both residents and non-citizens of the community are eligible to vote and be elected to local councils. The head of the municipality is the mayor, who leads the council and the finance committee.

The council has the right to convene local/county referendums on any matters within its competence. These referendums may only be advisory, even if the council associates its decision with the referendum result. The size of revenues also demonstrates the high level of autonomy of local budgets. About 80% are self-funded, and only 20% are financed by the state. It indicates a broad fiscal decentralization. The Ukrainian municipal system is

still in the stage of development and formation. The recognition and guarantee of local self-government in Ukraine are enshrined in Article 7 of the Constitution of Ukraine.

Local self-government in Ukraine is carried out by village, town, and city councils and their executive bodies. They consist of deputies elected by the community for five years. As for the local budget funding, the share of state revenues varies within the 20-38% range in different regions of Ukraine. In recent years, there has also been a decrease in dependence on intergovernmental transfers, indicating an increase in the level of community autonomy. REICE | 117

When comparing the powers of local self-government bodies, it should be noted that most regulatory spheres in Ukraine are similar to those in Denmark. These include providing social services, implementing employment policies, creating comfortable conditions for older people, managing healthcare and education institutions, and regulating the field of culture and sports. In addition, both countries entrust local self-government with public transportation control, ensuring tourism development, civil protection, and environmental conservation. However, regarding differences, it should be noted that Denmark has additional powers related to working with immigrants and ensuring their language proficiency. This way, the country aims to strengthen the status of the national language and prevent its displacement.

Furthermore, Danish municipalities are tasked with organizing reserves and preparedness for emergencies, while Ukrainian local self-government bodies are granted powers related only to eliminating the consequences of emergencies. Regarding taxation, both countries allow local authorities to establish local taxes and fees. Therefore, it is worth noting that Danish municipalities and regions have a high degree of independence from the government in carrying out their responsibilities, which has not yet been achieved in Ukraine. Speaking of the level of citizen trust, Denmark also holds a dominant position.

However, the powers of local self-government bodies in both countries are pretty similar. However, the quality of task execution and the results of local self-government activities

differ significantly. Therefore, it is necessary to thoroughly examine the control over the execution of powers in both countries and identify gaps in the Ukrainian local self-government system.

The mentioned problems necessitate the critical importance of reforming the territorial organization of power, which includes changing the administrative-territorial structure to models built on the democratic principles of European countries. Thus, the administrative-territorial system should be based on the following fundamental principles:

- Consistency between the administrative and territorial unit's system created for local self-government and the territorial structure of local executive authorities and other state authorities.
- Jurisdiction of local executive authorities and local self-government bodies should be widespread within the respective administrative-territorial units, except for specific territories with a special status where specialized administrations are established following separate laws.
- Alignment of borders of administrative and territorial units with the borders of neighboring administrative and territorial units of the same level.
- Mandatory location of administrative and territorial units within the territory of only one higher-level integration of administrative and territorial units.
- Subsidiarity in the distribution of powers between levels of public authority.
- Each level of administrative-territorial units should have powers, including sectoral ones, which are essential compared to other levels, justifying the creation of such levels of administrative-territorial units.
- The number of administrative-territorial units of the previous level that fall within the sphere of influence of each public authority should correspond to the criteria of effective management, ranging from 5 to 15.
- Compliance with the recommendations of the European Union regarding the nomenclature of territorial units for statistical purposes.

The foundation of local self-governance lies in the awareness of the territorial community about the existence of their own common interests, which may differ from the interests of other territorial communities and the state. In addition, decentralization allows for engaging society in problem-solving. For example, people should know why land is being used and how taxes are spent. REICE | 119

In the context of implementing the decentralization reform in Ukraine, it should be noted that developed European countries are based on the theory of free communities, where local self-governance is recognized as an autonomous and independent institution from a central authority. However, to effectively implement such an approach in practice, specific prerequisites are needed:

- Democratic traditions
- An appropriate level of political culture
- A sufficient level of civil society development.
- The system of local self-governance, based on the system of territorial communities under these conditions, is characterized by the following features:
 - The presence of clearly understood social interests and citizens' readiness to take political responsibility for the decisions made.
 - Clear distinction of competencies between the state and territorial community, with minimal state interference in the process of local self-governance.
 - The activities of local self-governance bodies have a democratic and transparent character.
 - The principle of subsidiarity is implemented in the distribution of powers.
 - Officials of local self-governance bodies have special education and adhere to a code of ethics.

Conclusion

Decentralization in Ukraine has already seen numerous examples of success in the form of amalgamated communities and the projects they have implemented. The growth of local budgets also evidences the effectiveness of the reform. However, the main feature of decentralization in Ukraine is a shift in people's mindset, as they have realized that they can influence the development of their communities better than anyone else. As a result, the reform has transitioned to a horizontal plane. Communities no longer wait for decisions from above; they negotiate among themselves, seek advice, learn from each other's achievements and mistakes, and move forward. Currently, there are 368 amalgamated territorial communities established in Ukraine. State support for the voluntary amalgamation of territorial communities is provided. The government offers informational, educational, organizational, methodological, and financial support for the voluntary amalgamation of territorial communities. State support also includes the development of perspective plans for the formation of community territories in the regions of Ukraine. Regional state administrations develop the perspective plan under the Methodology developed by the Ministry of Regional Development, Construction, and Housing and Communal Services of Ukraine and approved by the Cabinet of Ministers of Ukraine.

It is clear that the state should ensure the formation and implementation of state policy in the field of territorial organization of power, administrative-territorial structure, and the development of local self-government. Therefore, the presence of such perspective plans is necessary. According to the Budget Code amendments, all financial preferences provided for newly amalgamated territorial communities are granted in case of their formation per their perspective plan. The new administrative-territorial structure should become the territorial basis for the shape of a decentralized system of territorial governance, which will ensure the most efficient use of social resources, sustainable economic growth based on the principles of sustainable development, and improvement of people's living standards. The logic of a systemic approach to the reform of the administrative-territorial structure requires initiating this process with the reform of the basic level - the territorial communities.

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