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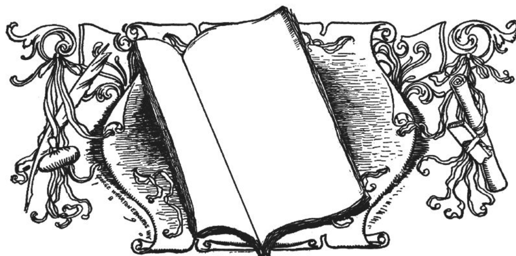

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Section 1.

GLOBALIZATION, DECENTRALIZATION, AND DEVELOPMENT OF SELF-GOVERNMENTS

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Adam Mickiewicz University in Poznań

GLOBALIZATION AND EUROPEAN LOCAL SELF-GOVERNMENT

Summary

Globalization processes, particularly those that intensified at the turn of the 20th and 21st centuries, of an economic and cultural nature, have had a significant influence on the functioning of democratic states, including local governance, which associated with the dynamic changes in their environment. The collapse of the welfare state model has brought new challenges to local self-governments in Europe. Many European countries implemented reforms to decentralize the state, empowering the local communities. The main effect of globalization on European local self-governments, apart from structural and institutional changes, has been the attempted development of adequate public administration management systems, which is involved with two processes: the marketization of public activities and the pursuit of public activities socialization.

Keywords: *globalization, local self-government, Europe, decentralization, reform*

Globalization has been an important field of study since the turn of the 21st century. It is both a theoretical concept used across many disciplines of science as well as a political and ideological slogan that mobilizes supporters and opponents to specific political actions (Giddens 2006, 81-85, 93-96; Urbański 2002; Wejkszner 2003; Pawlik, 2003). Globalization is a very broad and multifaceted term, and thus extremely capacious (Szymański 2001; Wallas 2003). Therefore, globalization processes are analyzed from the perspectives of various scientific disciplines utilizing many research approaches. Most of the studies of globalization, however, are directed at the economic impact (Zorska 1999, Dembiński, 2001). Presenting globalization as merely an economic phenomenon, however, is too reductive because it is a result of economic, political, cultural, and social processes (Starosta 2001, 41-64; Giddens 2006, 75-80; Pietrasik 2003). Despite the ambiguity of the concept, Zygmunt Bauman's (2000, 72) claim that globalization is a thing, which is happening to all of us, is irrefutable.

Tracing back the origins of the globalization processes seems to be a fruitless activity because globalization is a new aspect of managing the world's resources,

interpersonal communication, culture, and socio-political relations, but it is also a consequence of phenomena and processes that appeared much earlier (Adamczyk 2003, 202 -203; Deszczyński 2011). Historically, globalization has an inseparable connection to capitalism and Western civilization. Undoubtedly, globalization, which has manifested in the economic and technological sphere, marks a specific epoch in the development of capitalism (Tarnawski 2001). Janusz Sztumski (2003, 13) even argues that it is the pinnacle of the development of capitalism.

An important element of globalization is the significant growth of intercultural exchange as a result of the information and communication revolution. The predominant feature of this exchange is spread patterns, values, and norms related to the specific economic interests of Western nations. This process has always accompanied the development of capitalism, but given the modern conditions, and the dynamic development of media, especially electronic media, it has evolved new qualitative features. Because of the role that the United States plays in the modern global economy, the cultural dimension of globalization often takes the form of "Americanization" or even "McDonaldization" (Ritzer 1997). The West, due to its economic and technological superiority, has projected its customs and values on the global community with the mission of establishing universal norms to a much greater extent than other civilizations. The egocentrism of the Western civilization is expressed in the conviction that only it can evolve, while other civilizations are only considered in terms of regression and backwardness. Globalization leads to multicultural societies and it is believed that the strength of the Western civilization has resulted from an openness to foreign influences, and a willingness to utilize the science and technologies produced by other civilizations. However, because of the uncontrolled influx of foreign capital, goods, services, and cultures into the West there has been a negatively perceived loss of local culture. This leads to community resistance and the desire to preserve the local heritage. In this way, cultural conflict arises with other civilizations, primarily with Islam which is also convinced of the superiority of its cultures and values (Barber 1997; Huntington 1998; Starosta 2001, 53-60; Polak 2003, 27-29; Appardurai 2005, Malendowski 2003).

Globalization remains inextricably linked to localism, which, in tandem, is often referred as 'glocalization' (Bauman 1997, Yuichi 2005, 208). Globalization has a clear economic impact on the competitiveness of particular regions (Starosta 2001, Bauman 2000, 7), but also contributes to the cultural disintegration of local or regional communities (Appardurai 2005, Barczyk 2001, 142). However, there has been a global renaissance of localism, resulting in the pursuit of a high degree of localized self-determination (Barański and Stolarczyk 2003). This renaissance has resulted in greater activity of local

or regional communities, striving for decentralization and growth of self-governance, references to their own cultural roots, history, traditions and common interests, but also in rebellion of minorities frustrated by a sense of marginalization and exclusion. As Bauman (2000, 6-7) writes: When business, finance, and commerce acquire a global dimension, and the flow of information takes place on a global scale, the localization process begins, which aims to define space precisely and embed it in place. People do not want to accept that in a globalized world, locality is a sign of social impairment.

Due to the tendencies of globalization and bottom-up decentralization, modern states are forced to limit themselves on two levels: by relinquishing competences in favor of international systems, and by delegating some of their powers to the local self-governments (Osiński 2001).

When taking the above into consideration and treating globalization as a new quality, rooted in the developmental trends of capitalism, an attempt can be made to determine the impact of globalization on the functioning of the local self-governments.

Modern local self-governments, which have become an inseparable element of the contemporary democratic state, which developed as a result of the Industrial Revolution, operate with respect of the fact that local communities want to be able to govern themselves, but under the assumption of the necessity of central power. Despite the long-term development of contemporary democracies, historical complications (taking sometimes the form of totalitarian regimes), cultural and political conditions, which led to the emergence of different models of local self-governing (Izdebski and Kulesza 1998, 29-66, 189-197, Rajca 2010, 14-17), local self-government has become an immanent element of democratic state. It is obvious that the state is also treated as a pattern of societies' political functioning, which contains globalistic thinking.

This model of governance was formed in the historically and culturally diverse United States of America, England, and France at the end of the 18th century. The specificity of the implementation of the local governance models prevented homogeny of systemic solutions. In France, the concept of "free municipalities" created during the Great Revolution was based on the philosophy of the natural rights of the individual. Following the anarchical revolution, the National Assembly, from 1789-1791, established a political concept based on this philosophy, which became the justification for self-governance, and local governance, into modernity. In this case, the Prussian model of local self-government, based on Karl von Stein's 1808 reforms, became the standard model of governance in Europe. This model, in which the state permits cooperation with local territories that have the rights of self-governance, evolved during the

XIX century toward the concept of public participation in state administration, which established the foundation of modern local governance. This concept was gradually implemented across Europe, adjusting for cultural and national traditions, and, to this day, shapes the European local governance model.

In the XX century, in the aftermath of the terrors of World War I, brought ideological and political critique of democratic systems, which in some European countries was the impetus of the formation of totalitarian and autocratic systems. Under such systems, local self-government ceased to exist, or its competences were severely restricted. After World War II, competition, and the conflicts of two economic-political systems, dominated the world. This conflict of ideological systems gave rise to a "socialist globalization" marked by a centralized, controlled, and uniform economy, culture, and political organization of society. Of particular interest are the National (People's) Councils which emerged which were treated as an element of unitary system of state power. However, the growing strategic, political, and economic influence exerted by the USA meant that social life in capitalist countries was influenced by 'Americanism', regardless of historical tradition (e.g. European or Far Eastern).

European integration, with limited nation-state sovereignty, coupled with integration progresses, has been the response to the American domination of the economy and world politics. The regional integration processes accelerate the economic achievements resulting from globalization. Integration into the European Union facilitates the globalization process, especially for new Member States. Regional (European) integration and globalization are, therefore, more complementary than conflicting (Gwiazda 2000).

Globalization has had a significant impact on the structures of governance for highly developed capitalistic countries which, in the second half of the 20th century, had been subjected to etatization and centralization. During this time, the there was a crisis over local governance across Western Europe and the United States. There was the answer to it - the reforming measures undertaken that fitted in the frames of realizing the doctrine of the welfare state. Representational parliamentary democracy, based on the free elections and the principle of the representation, institutionally provides citizens control of the state and guarantees the protection of their rights and freedoms. Due to social development in the post-industrial era, society began to lose faith in this form of democracy as its dysfunctions and inefficiencies became apparent. The crisis of the legitimization of representational democracy, based on the delegation of the decision-making mandate to the structures of political parties, revealed by the contention of the 1960s and 1970s, created a need to search for alternative ways of realizing basic social values.

The welfare state model began to collapse by the 1980s and created a need for further reform (Swianiewicz 1992). As a result of the fundamental criticism of the social order established by the dominance of a centralized state, there has been a shift towards local communities being the principal form of social life organization, legitimizing the existence and rights of public authority, and creating an optimal platform for solving economic and social problems. The principle of subsidiarity is the foundation of the framework of this political model. For many countries, implementation of this model meant undertaking large-scale reforms to decentralize the state. These processes primarily involved highly developed countries, particularly the countries of the European Union. As a result of the collapse of the socialist system, countries in Central and Eastern Europe began transformation, embracing the concepts of local governance. Countries in Central and Eastern Europe experienced a restitution of autonomy which led to adjustment problems (Kaczmarek 2005, 151 -157) and a need to develop and modernize the local self-government structures, a process that continues to this day (Pickvance 1996; Wojnicki 2012)

Many elements of decentralization transformations through international technical assistance programs have also taken place in the underdeveloped Asian and African countries, as well as European countries still outside the European Union (Izdebski and Kulesza 1998, 309-310; Hurska-Kowalczyk 2011).

Decentralization manifests as governmental and public administration reforms based on two basic directives: the deconcentration and the decentralization of functions. The axis of this process is the empowerment of local self-governments, from the small local communities to large sub-national regions. Decentralization of public administration necessitates the creation of an appropriate institutional framework for the execution of competences on a local level. Local self-government, which is a mandatory standard in Europe, based on the European Charter of Local Governance, adopted by the Council of Europe in 1985, is one of the most common institutional forms of exercising public authority at a sub-national level. The development of local governance has become an antidote to the diseases and disabilities of democracy at the national level. Local self-government is not, however, a guarantee that the values and principles for which it has been established will be upheld. Paradoxically, local governance is not without the same threats that plague parliamentary democracy and national governance: corruption, incompetence, preferring particular interests, as well as a number of other misrepresentations that may lead to the negation of the mission of the local self-government (Gąciarz 2004. 13; Hryniewicz 2012).

Local administration has been in a state of crisis for the last forty years, creating a need for constant reform. This, Hurbert Izdebski (2006, 51-52) attributes to:

a) the deputization of local self-governments by the central authorities, which inherently deprives the local self-governments of independence from the central level;

b) local self-governments are limited in their ability to control a significant part of the economic activity conducted within their jurisdiction and obtain tax revenues on it because the concentration of capital is on the national and global level;

c) technical progress is more conducive of centralization than decentralization (although it also serves to improve local administration).

At the turn of the 21st century, globalization, urbanization, European integration, technological development, and social changes in terms of attitudes, values, and lifestyles contributed to significant changes in the external socio-economic and political environment of local self-government in the European states (Rajca 2010, 321-326) J. Loughlin (2004, 22-24) indicates that globalization has contributed to:

a) the creation of free market, which drives competition rather than promoting solidarity and the equalization the regional disparities;

b) the perception of local and regional development in economic terms rather than social, cultural, or political ones;

c) “citizenship” and “democracy” being defined in various ways, emphasizing elements of public choice and consumerism;

d) the dominance of economic processes over political ones which deprives the local self-governments of the possibility of controlling a significant part of the economic activity within their jurisdiction;

e) the intensification of social fragmentation and social exclusion which creates additional burdens for the local authorities.

The impact of the above conditions on the implementation of European local governance has augmented since the economic crisis of 2007, which has created new circumstances for the transformation of the local self-government structure. Drawing conclusions from previous reforms, it is possible to determine their future direction.

Land reforms have had a significant impact on the relationship between the central and local governments units. Consolidation reforms combined municipalities and other local self-governing bodies into the larger units. Such reforms were implemented in the 1960s and 1970s in many West European countries (Scandinavia, Great Britain, the Netherlands, Austria, and Germany),

and at the turn of the 21st century in Great Britain, Denmark, Germany, and Greece (Kaczmarek 2005, 138-157, 161-184, Swianiewicz 2009). Municipal consolidation is not an easy political process. Supporters assert that the economy benefits from economics of scale, while opponents feel the consolidation to be an infringement on the local democracy. Poland is in need of such reforms, but policy of this nature would be met with considerable resistance. Municipal consolidation is anticipated to be a future project for metropolitan areas, which is supported by the European Union (Kaczmarek 2005, 248-260, Nawrot 2011). If, however, central policies are made to facilitate the development of cooperation between local self-government units, resistance to municipal consolidation can be abated.

Regionization is also considered a systemic land reform, regardless of whether it only decentralizes or introduces a degree of autonomy as well. If, however, local autonomy is introduced, it may lead to a weakened ability to exercise self-governance (Rajca 2008). Based on the current political atmosphere, a trend of progressive regionization can be expected.

Local self-government reform also leads to institutional changes, such as strengthening of the executive body by separating it from the legislative body, extending its scope of independence and competences. Introducing direct elections of a monocratic executive body in municipalities is one of the proposed ways of implementing such reform (Kasiński 2009, 232-249, Rajca 2010, 333-336).

Counteracting the contemporary challenges takes the form of searching for the adequate public administration management systems, which takes place within two parallel processes: the marketization and socialization of public service distribution. In the first case, it takes the form of New Public Management (NPM). The implementation of NPM, which appears in many variants, is usually associated with the privatization of the provision of services and benefits, the treatment of citizens as clients, and a managerial style of governance. In many cases, state and local self-governments treat NPM as a tool to be used as needed (Zalewski 2007, 26-39, Rajca 2010, 336-338).

A more competitive concept of local governance, which emphasizes the social aspect, is Community Network Management (Rajca 2008). According to Izdebski (2006, 27), “governance” is a function of managing complex communities by coordinating the activities of entities from various sectors. This concept is also associated with the management model referred to as “good governance.” Good governance assumes that public administration is a form of cooperation in order to solve social problems. Therefore, decision-making processes and policy implementations should be characterized by social participation, equality,

the promotion of the rights of minorities, upholding the rule of law, consensus, transparency, flexible solutions, efficiency and effectiveness, and a broadly understood responsibility towards society. In theory, the equivalent of this model is deliberative democracy, which is based on the recognition that governing depends on discourse with the community regarding social problems.

According to the model presented above proper public governance requires a balance of effective and participatory aspects. It is connected with the concept of multi-level governance (MLG), supported by the European Union, which is understood as the coordinated actions of the Union, Member States, and the local and regional authorities to create and implement European Union policy based on multi-leveled partnership. In accordance with the principle of multi-level governance, local policy is a framework for the actions of public entities, the business environment, local institutions, non-governmental organizations, and representatives of interest groups (Pierre and Stoker 2000). Because good governance is participatory, there is need to transform society for the better through education and access to information in order to increase civic engagement. There are various initiatives such as the "Let's Decide Together" program, financed by the European Union, aimed at increasing such participation.

Civic participation cannot, however, be limited to activities intended to support democratization. Good governance requires civic engagement in shaping the legislative processes, which is a basic feature of democracy and the most important value of a democratic political culture (Tilly 2008, 20-23). As R. J. Dalton argues, "democracy requires citizens' activity because it is through discussion, civic engagement, and interest in politics, social goals should be defined and implemented. Without the involvement of citizens in this process, democracy lacks legitimacy and its inspiring power" (2002, p. 32.).

The hypothesis regarding the increase of civic participation, especially at the local level, is that it is a response to the deficit of democracy, a conditions of globalization, in the structures of representative power at the local, national, and supra-national level (e.g. in the European Union). Citizens should participate in governance by building communications and bilateral relationships with their representatives. Participation should be a conscious effort from both sides. As J. L. Creighton (2005, p. 9) notes, civic participation is a process "by which public concerns, needs, and values are incorporated into the governmental and corporate decision-making procedures. It is a two-way communication and interaction that is guided by one general goal: making the best decisions possible and having public support." The implementation of such a process requires responsible tools, hence the reference to deliberative democracy (Croser 1996, Cohen 1998).

Public participation, or civic participation, is ambiguous in definition. Currently, according to S. Langton (1997), it is assumed that this form of participation encompasses four categories of participation in the life of political communities: compulsory participation, electoral participation, civic engagement, and public activity.

Civic participation, in other words, broad democratization, or encouraging individuals to utilize democratic institutions, has a local dimension, is conducive to solving local problems, and thus is a means of combating the negative effects of globalization, although, in a way, it is actually its consequence.

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Streszczenie

Procesy globalizacyjne, szczególnie nasilone na przełomie XX i XXI wieku, mające głównie charakter gospodarczy i kulturowy, wywierały i wywierają istotny wpływ na funkcjonowanie państw demokratycznych, w tym także na władze lokalne, co wiąże się z dynamicznie zachodzącymi zmianami w ich otoczeniu. Załamanie się modelu państwa opiekuńczego postawiło przed samorządem terytorialnym w Europie nowe wyzwania. W praktyce w wielu krajach europejskich oznaczało to podjęcie reform zmierzających do dewolucji państwa, której osią jest upodmiotowienie społeczności terytorialnych. Głównym efektem globalizacji w obszarze europejskiego samorządu terytorialnego, obok reform struktury przestrzennej oraz zmian instytucjonalnych, jest poszukiwanie adekwatnych systemów zarządzania administracją publiczną, co zawiera się w dwóch procesach: urynkowieniu działalności publicznej oraz dążeniu do jej uspołecznienia.

***Słowa kluczowe**: globalizacja, samorząd terytorialny, Europa, dewolucja, reformy.*

Резюме

Процессы глобализации, в особенности те, которые интенсифицировались на рубеже XX и XXI веков, в основном экономического и культурного характера, оказывали и оказывают значительное влияние на

функционирование демократических государств, в том числе на динамично меняющееся местное самоуправление. Крах модели государства всеобщего благосостояния вызвал новые проблемы для местного самоуправления в Европе. Многие европейские страны осуществили реформы в сфере децентрализации, расширению прав и возможностей местных общин. Основным эффектом глобализации в области территориального самоуправления Европы, помимо пространственной структуры и институциональных изменений, является поиск адекватных систем государственного управления, которые связываются с двумя процессами: маркетингом общественной деятельности и ее социализацией.

***Ключевые слова**: глобализация, местное самоуправление, Европа, децентрализация, реформа.*

Анотація

Процеси глобалізації, особливо ті, які інтенсифікувалися на рубежі XX і XXI століть, в основному економічного і культурного характеру, здійснювали і здійснюють зараз значний вплив на функціонування демократичних держав, в тому числі на місцеве самоврядування, що динамічно змінюється. Крах моделі держави загального добробуту викликав нові проблеми для місцевого самоврядування в Європі. Багато європейських країн здійснили реформи з децентралізації держави, розширення прав і можливостей місцевих громад. Основним ефектом глобалізації в області територіального самоврядування Європи, крім просторової структури та інституційних змін, є пошук адекватних систем державного управління, які зв›язуються з двома процесами: маркетингом громадської діяльності і її соціалізацією.

***Ключові слова:** глобалізація, місцеве самоврядування, Європа, децентралізація, реформа.*

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LEGAL MECHANISM OF THE LOCAL SELF-GOVERNMENT REFORM AND DECENTRALIZATION OF GOVERNMENT IN CONDITIONS OF GLOBALIZATION CHALLENGES

Summary

Legal foundations of the reform of local self-government and decentralization of government in conditions of globalization challenges in Ukraine are analyzed in the article. The research is based on the condition that the process of reforming local self-government should take place simultaneously with the reform of the administrative-territorial system of the country.

A number of normative legal acts aimed at improving the legislation in the field of regulation of the formation of capable territorial communities are analyzed. The author stresses that the transfer of authority and resources to the level of the united territorial community includes the inhabitants of these communities in the management process. Due to this, the inhabitants of these communities feel their responsibility for their destiny and independently determine the most effective infrastructure of the territory of the united community. This is a positive aspect of the reform.

The problem of transfer of powers on land resources to local self-government bodies within the territorial communities is also considered in the article. The presence of a large number of bills now indicates the importance and urgency of this issue's solution.

The author researches the remaining bills, which refer to the entire system of local self-government. They significantly expand the list of issues that are proposed to be resolved. Therefore, they need more conciliation procedures and more time to resolve disputes.

Keywords: *local self-government, decentralization of government, territorial community, administrative-territorial system of Ukraine.*

The Ukrainian state, having great natural, economic, cultural and intellectual potential, chose the way of building statehood by combining the general civilization tendencies and the national content of the state-building process in modern conditions.

Ukraine's goals of achieving the living standards of the European Union should, among other things, take place on the principles of decentralization of government, increasing the effectiveness of direct democracy's forms, the participation of everyone in the adoption of management decisions of local importance, the development of civil society, the reform of the administrative system, local self-government and territorial organization of power.

The socio-political base is formed through the development of a system of local self-government and territorial organization of power. The legislative support of such system continues today in Ukraine.

The ideology of decentralization of public administration and the powers of public authorities forms the basis of the legislative support for reforms in Ukraine. It is also in line with the basic provisions and principles of the European Charter of Local Self-Government (Yevropeyska Khartiya mistsevogo samovryaduvannya, 1985), namely:

- decentralization of public administration. It means the extension of powers of local bodies of executive power and local self-government at the expense of the powers of territorial bodies of central executive authorities in order to optimize and increase the efficiency of management of socially important affairs, the most complete realization of regional and local interests;

- subsidiarity. This principle means that the division of powers between local executive authorities and local governments at different levels should be carried out in such a way that, on the one hand, the process of decision-making is maximally brought closer to the citizen. On the other hand, these bodies shall be able to possess organizational, material and financial resources that give the volume and quality of services provided to the population in accordance with national social standards;

- legality. It means that local executive authorities and local self-government bodies shall act only within the limits of authority and in the manner provided for by the Constitution and laws of Ukraine, based on a clear distribution of powers and responsibilities between these bodies and their officials;

- ubiquity of local self-government. This principle means that local self-government shall be carried out throughout the territory of Ukraine, which means the absence of territories not covered by the jurisdiction of territorial communities, unless otherwise specifically provided for by special laws;

- territoriality of local self-government. That is local self-government should be carried out in territories that are separated from each other. There cannot be several territorial communities within one boundary acting as independent entities with the right to local self-government;

- legal autonomy of local self-government. It means that the powers of territorial communities and relevant local self-government bodies shall be complete and exclusive, that is, they cannot belong to other bodies. Territorial communities and local self-government bodies shall act independently and initially within these powers;

- organizational autonomy of local self-government. This principle means that territorial communities and relevant local self-government bodies shall be able to determine independently their own structures based on local needs and the need to ensure effective administration. Any administrative control over the activities of such entities shall be carried out only to ensure compliance with the Constitution of Ukraine and laws;

- material and financial independence and capacity. This means that the territorial community and relevant local self-government bodies shall freely own, use and dispose of communal property and their own financial resources in order to meet their own needs within the limits of their authority.

The Concept of the Reform of Local Self-Government and Territorial Organization of Government in Ukraine (Kontseptsiya reformuvannya mistsevoho samovryaduvannya ta terytorialnoyi organizatsiyi vlady v Ukrayini, 2014), which was approved by the Government on April 1, 2014, takes into account these provisions. This Concept formed the basis of political reform in Ukraine.

It should be noted that the process of reforming local government should occur in synchrony with the reform of the country's administrative-territorial system, especially at the community and subregional levels.

In this regard, the following issues need to be addressed during the reform of local self-government and administrative-territorial organization.

First, the system of administrative-territorial structure of Ukraine needs legislative regulation. The administrative territorial units, which are the territorial basis for the organization and activities of state bodies and / or local self-government bodies, should make this system. At the same time, it is necessary to distinguish legally between the notion of "settlement" (village, town, and city) and "administrative-territorial unit" (community, district, and region). They are often seen as the same. Such situations disorganize the administrative-territorial system, generate complex communities, when administrative-territorial units become part of others. It is necessary to determine the basic territorial unit so that its geographical composition and limits of jurisdiction are understood.

Second, the question of creating, reorganizing or liquidating communities and districts, changing their boundaries and transferring administrative centers, assigning settlements to the corresponding categories, naming and renaming

administrative and territorial units and settlements, and also maintaining the state register of administrative-territorial units and settlements needs clear regulation.

The author thinks that these issues should be the subject of legal regulation by a separate Law of Ukraine. The draft Law of Ukraine "On the Principles of the Administrative-Territorial Order of Ukraine" (Pro zasady Administratyvno-terytorialnogo ustroyu Ukrayiny, 2017) was submitted to the Government for consideration. Currently it awaits approval.

Adopting this law will allow for regulating the procedure of resolving issues of the administrative and territorial structure of Ukraine within the limits of the current Constitution of Ukraine. In addition, it will allow leaving aside the Regulation, which determines the procedure for resolving issues of the administrative-territorial system, which was approved in 1981 (Pro poryadok vyrishennya pytan administratyvno-terytorialnogo ustroyu Ukrayinskoyi RSR, 1981).

The adoption of the Law of Ukraine "On the Administrative-territorial System of Ukraine" should be the next step. Adoption of this law is partially complicated by the suspension of the process of amending the Constitution of Ukraine (regarding decentralization of power) (Pro vnesennya zmin do Konstytutsiyi Ukrayiny, 2015). This process proposes to introduce a new system of territorial organization of power, division of powers between the authorities and local self-government.

These circumstances significantly influenced the consistency of the implementation of the local self-government reform and delayed the reform of the administrative-territorial system. Undoubtedly, this situation partially slowed down the reform process, but did not stop it.

However, it should be noted that despite the aforementioned obstacles, the process of reforming local self-government and decentralization of government during 2014-2018 takes place within the limits of the current Constitution of Ukraine and proceeds with a sufficiently rapid pace.

As already noted, one of the principles of the European Charter is forming capable communities and local government, providing communities with quality public and administrative services.

Therefore, the creation of capable territorial communities is the focus at the first stage of the reform in Ukraine. Capable territorial communities will consolidate the maximum amount of powers and resources to resolve the vast majority of issues of local importance under their own responsibility and provide their communities with quality public and administrative services.

Conceptually, such communities should form around economic centers, primarily around cities and other settlements that have sufficient potential and conditions for sustainable growth.

The procedure for the formation of capable communities, their powers, financial resources are fixed in many basic legislative acts, in particular: "On the Voluntary Association of Territorial Communities" (Pro dobrovilne obyednannya terytorialnykh gromad, 2015) from February 5, 2015, No. 157-VIII, "On Amendments to Certain Legal Acts of Ukraine Concerning the Organization of the First Elections of Deputies of Local Councils and Village, Settlement, City Mayors" (Pro vnesennya zmin do deyakikh zakoniv Ukrayny schodo organizatsiyi provedennya vyboriv deputativ mistsevykh rad ta silskykh, semyschnykh, miskih goliv, 2013) from September 4, 2015, No. 676-VIII, corresponding changes to the Budget Code of Ukraine (Byudzhetnyi kodeks Ukrayny, 2001) and the Method of Forming Capable Local Communities (Pro zatverdzhennya metodyky formuvannya spromozhnykh terytorialnykh hromad, 2015)

New circumstances requiring additional legislative regulation arose in the process of capable communities' formation starting from 2015 and during the activity of newly formed local self-government bodies. Due to this, a number of legal acts were adopted aimed at a significant improvement of the legislation on the regulation of the capable territorial communities' formation only in 2017.

In particular, such laws were adopted:

- Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the Voluntary Adoption of Territorial Communities" (Pro vnesennya zmin do deyaknih zakoniv Ukrayny schodo dobrovilnogo obyednannya terytorialnykh gromad , 2017). It introduced the procedure for voluntary adherence to the already established united territorial community; clarified the requirements for the recognition of the united territorial community as capable one;

- Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the Peculiarities of the Voluntary Association of Territorial Communities Located on the Territories of the Adjacent Regions" (Pro vnesennya zmin do deyaknih zakonodavchykh aktiv Ukrayny schodo osoblyvostey dobrovilnoho obyednannya terytorialnykh hromad, roztashovanykh na teritoriyak sumizhnykh rayoniv, 2017). It introduced a mechanism for the creation of a united territorial community, which includes territorial communities of the adjacent administrative districts. It also introduced the possibility of creating the united territorial community, the center of which is a city of regional significance. Besides that, it determines the procedure for the appointment of the first local elections in such communities;

- the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the Status of a Village and Town Headman" (Pro vnesennya

zmin do deyaknih zakoniv Ukrayny schodo statusu starosty sela, selyscha). It specified the legal status of the village headman, improved the functioning of the institute of the united territorial communities' headman. It also defined his powers and forms of accountability and responsibility to the community and to the local council. Moreover, the Law defined the notion of the village headman district by amending the Law of Ukraine "On Local Self-Government";

- the Law of Ukraine "On Amendments to Certain Legal Acts of Ukraine Regarding the Acquisition of Authorities of Village, Settlement, and City Mayors" (Pro vnesennya zmin do deyaknih zakoniv Ukrayny schodo nabuttya povnovazhen silskhih, selyschnykh, miskih goliv). It made amendments to the Laws of Ukraine "On Local Self-Government" and "On Local Elections" regarding the regulation of the issue of obtaining the authority of the village, settlement, city mayor;

- the Resolution of the Cabinet of Ministers of Ukraine "On Amendments to the Resolution of the Cabinet of Ministers of Ukraine from March 9, 2006 No. 268 and the Recognition of those that have Become Invalid, of Certain Resolutions of the Cabinet of Ministers of Ukraine" (Pro vnesennya zmin do postanovy Kabinetu Ministriv Ukrayny vid 9 bereznya 2006 r. №268 ta vyznannya takymy, scho vtratyly chynnist, deyakykh postanov Kabinetu Ministriv Ukrayny). It is about the system of remuneration of local self-government bodies' officials. The resolution provides for a significant increase of official salaries of local self-government officials. They are made in accordance to the official salaries of civil servants. It also provides for a renewal of allowances for high achievements in labor in village, town councils and their executive bodies; a regulation of wages in village, town councils and their executive bodies, which represent united territorial community; clarification of the order of bonuses, and the establishment of surcharges;

- the Ordinance of the Cabinet of Ministers of Ukraine "On Approval of a List of Capable United Territorial Communities in which the First Elections of Deputies of the Village, Town, City Council and Corresponding Village, Town and City Mayor Took Place in 2016" (Pro zatverdzhennya pereliku spromozhnykh obyednanykh hromad, u yakyhg vidbulysya pershi vybory deputativ silskoyi, selyschnoyi, miskoyi rady ta vidpovidnogo silskogo, selyschnogo, miskogo golovy u 2016 r.). The Government approved the list of capable united territorial communities, in which the first local elections took place in 2016, for the legal and regulatory support of their transition to direct inter-budgetary relations with the state budget;

- the Law of Ukraine "On Amendments to the Law of Ukraine "On the State Budget of Ukraine for 2017" (regarding provision of funding for

local elections)" (Proekt Zakonu pro vnesennya zmin do Zakonu Ukrayiny "Pro Derzhavnyi byudzhet Ukrayiny na 2017 rik" (schodo zabezpechennya finansuvannya mistsevykh vyboriv). It regulates the financial support of local elections, including the first local elections in the united territorial communities;

- the Law of Ukraine "On the Service in Local Self-Government Bodies", which introduces fundamentally new principles of service in local self-government bodies. It creates legal preconditions with the purpose of regulating the status of an employee of the local self-government body, increasing prestige and ensuring equal access to the service in local self-government bodies, promoting career growth, creating a new model of remuneration, introducing mechanisms for preventing corruption, raising the level of social and material protection of employees, etc. (Sotsialno-ekonomichnyi rozvytok regioniv Ukrayny: tendentsiyi pershoyi polovyny 2017 r.). However, the President of Ukraine (Propozytsiyi Prezydenta Ukrayiny do Zakony "Pro sluzhbu v organakh mistsevogo samovryaduvannya") returned a law with his proposals for reconsideration on March 21, 2017.

An important positive aspect of the reform is that the transfer of power, resources and personnel to the level of the united territorial community included the inhabitants of these communities in the process of governance. They feel responsible for their own destiny and independently determine the most effective infrastructure of the united community's territory.

The first elections have been established and held in 665 united territorial communities since the introduction of the Law of Ukraine "On Voluntary Association of Territorial Communities" (Pro dobrovilne obyednannya terytorialnykh gromad) during 2015-2017 in Ukraine. They included 3118 (27.8%) local councils with a population of about 5.7 million people, the territory of which is 161 700.6 sq. km. km (28.1% of the total area of the country) (Monitoryng protsesu detsentralizatsiyi vlady ta reformuvannya mistsevogo samovryaduvannya).

The dynamics of the establishment of united territorial communities is characterized by such data. In 2015, 159 united territorial communities were formed, which started direct inter-budgetary relations with the state budget; in 2016 - 207, in 2017 - 299 united territorial communities. In early January 2018, 34 other united territorial communities waited for the decision of the Central Election Commission on the appointment of the first local elections.

The Law of Ukraine No. 1851-VIII "On Amendments to Certain Legislative Acts of Ukraine Regarding the Voluntary Adoption of Territorial Communities" (Pro vnesennya zmin do deyaknih zakoniv Ukrayny schodo dobrovilnogo obyednannya terytorialnykh gromad) entered into force on February 9, 2017.

The Central Election Commission received a submission on the appointment of additional elections from 12 united territorial communities, joined by 22 village / settlement councils (population 118,065). Four united territorial communities, joined by seven village / town councils (population 48 534), prepare an appeal to the Central Election Commission for the appointment of additional elections. Six united territorial communities wait for the conclusion of the regional state administrations on the compliance with the Constitution and laws of Ukraine of draft decisions on the accession of 11 village / town councils (55 557 people).

However, the issue of joining cities of oblast importance is particularly relevant today. Its solution is proposed by the draft Law of Ukraine "On Amendments to the Law of Ukraine "On Voluntary Association of Territorial Communities" on Voluntary Adherence of Territorial Communities of Villages, Settlements to Territorial Communities of Cities of Oblast Significance". It is registered in the Verkhovna Rada of Ukraine (Reg. No. 6466 dated May 18, 2017) (Pro vnesennya zmin do Zakonu Ukrayny "Pro dobrovilne obyednannya terytorialnykh gromad" schodo dobrovilnogo pryednannya terytorialnykh gromad sil, selysch do terytorialnnykh gromad mist oblasnogo znachennya).

We believe that the adoption of the above Law will significantly intensify the process of voluntary adherence to territorial communities of cities with special status, state, regional significance. In Ukraine, there are 187 such territorial communities. It will also become a new strong impetus to decentralizing public power and creating new and powerful, territorial communities.

The formation of one or several communities, whose borders completely coincide with the borders of the respective rayon, was, in some cases, the result of voluntary association at the present stage of the reform. There were 15 such rayons in Ukraine in 2015 (Kontseptsiya reformuvannya systemy profesiynoho bnavchannya derzhavnykh sluzhbovtsiv, holiv mistsevykh derzhadministratsiy, yikh pershykh zastupnykiv ta zastupnykiv, posadovykh osib mistsevoho samovryaduvannya ta deputativ mistsevykh rad). In such areas, most of the powers of the respective district state administrations, rayon councils passed to the appropriate local councils of newly formed territorial communities and their executive bodies.

For example, the boundaries of the newly formed united territorial communities of Liman (Donetsk region), Naroditskaya (Zhytomyr region), Starosynavskaya (Khmelnytsky region), and Snovskaya (Chernihiv region), completely coincide with the borders of the respective districts.

Let us give examples of several united territorial communities, the borders of which fully coincide with the boundaries of the region. These are Letichevsky district of Khmelnitsky region, where two united territorial communities were

formed, and Apostolic district of Dnipropetrovsk region, where four united territorial communities were formed.

Thus, the situation occurs according to which the district state administration, the district council with the number of employees and expenses for their maintenance, and the executive bodies of the united territorial communities with the powers determined by the legislation function at the same time in the territory of the respective rayon. Such situation occurs when one or several communities unite, the borders of which coincide with the boundaries of the respective region.

The Verkhovna Rada of Ukraine registered a draft Law of Ukraine "On Amendments to Certain Laws of Ukraine Regarding the Establishment, Reorganization and Elimination, Naming and Renaming of Local State Administrations" (Reg. No. 6641 dated June 23, 2017) (Pro vnesennya zmin do deyaknih zakoniv Ukrayny schodo utvorennya, reorganizatsiyi i likvidatsiyi, naymenuvannya i pereymenuvannya mistsevykh derzhavnykh administratsiy). It is done in order to solve this issue and optimize executive bodies at subregional level. It is impossible to optimize the system of territorial placement of local state administrations without such a law.

We agree with the experts of the National Institute for Strategic Studies (Sotsialno-ekonomichnyi rozvytok regioniv Ukrayny: tendentsiyi pershoyi polovyny 2017 r.), who identify a number of other unresolved problems, both strategic and operational, that pose risks for successful implementation of the reform, in particular:

1) regional state administrations did not complete the development of and regional councils did not complete the approval of long-term plans for the formation of boundaries of regional communities. Some united territorial communities are formed in order to obtain additional powers and resources. However, they will not be able to provide their inhabitants with the quality services, intensify economic processes and, ensure the sustainable development of communities in the future, because they do not have the appropriate infrastructure and resources. The further spread of this practice poses a threat to the leveling principle of reform, because small-scale territorial communities with underdeveloped infrastructure and insufficient human resources are formed instead of capable territorial communities.

2) Improving and stabilizing n of state financial support for the voluntary unification of territorial communities. In 2016, a subvention from the state budget to local budgets for the formation of united territorial communities' infrastructure amounted to 1 billion UAH. It was allocated among the budgets of 159 united territorial communities (in proportion to the size of the community

and the number of rural population in such territorial community with equal weight of both of these factors). In 2017, the amount of such subvention was 1.5 billion UAH for 366 united territorial communities. The amount of such subvention is 1.9 billion UAH for 665 united territorial communities in 2018 (Pro derzhavnyi byudzhet Ukrayny na 2018 rik). That is, each community receives less money than last year and the year before last year. A rapid increase in the number of united communities without a proportional increase in the subvention for infrastructure development will reduce the motivation of communities to unite and diminish their opportunities for social and economic development. This situation creates preconditions for unequal state support of communities that have been formed in different years. Moreover, it will worsen expectations of reform.

The Ministry of Regional Development plans to submit the relevant draft law to the Government for consideration, illuminating the aforementioned problem and to establishing a clear mechanism for fixing the subvention amount in the state budget for each subsequent year.

3) Nonsupport in some cases for the process of uniting territorial communities and resistance from some district state administrations, local councils and local elites. Representatives of already established communities and experts, representatives of central executive bodies constantly report on the existence of this problem. Certain local executive bodies and local self-government at the rayon level counteract the creation of united territorial communities due to fears of losing jobs or powers. Local elites do not want to lose their influence on rural and district councils, as the creation of united communities is accompanied by reformatting the authorities and changing the emphasis in governance on community's benefit.

4) to work out the issue of introducing control mechanisms for the local self-government bodies and ensuring the quality of administrative and social services provided to the population. The issue of introducing mechanisms for monitoring the activities of local self-government bodies, both from the part of state bodies and from the public side, is highly relevant in the decentralization of government and transferance of resources to local self-government bodies.

Consequently, the author of this article agrees with the above-mentioned problematic aspects that require legislative regulation with the purpose of implementing the reform of local self-government and territorial organization of government effectively, encouraging communities to unite and create capable communities. It should be emphasized on such an important issue as the transfer of powers to local governments to manage land resources outside the territorial communities.

The issue of management of land resources outside the territorial communities of local governments have not been solved during two convocations of the Verkhovna Rada of Ukraine.

Several draft laws on this issue have been registered in Parliament, in particular:

1. The Parliamentary Bill № 4355 "On Amendments to Certain Legislative Acts of Ukraine on Extending the Authorities of Local Self-Government Bodies to Land Resources Management and Strengthening State Control over Land Use and Protection" (Pro vnesennya zmin do deyaknih zakonodavchykh aktiv Ukrayny schodo rozshyrennya povnovazhen organiv mistsevogo samovryaduvannya z upravlinnya zemelnymy resursamy ta posylennya derzhavnogo kontrolyu za vykorystannyam I ohoronoyu zemel) has been under consideration since 2015. It was adopted in the first reading on April 19, 2016.

2. The Government filed a bill number 7118 "On Amendments to Certain Legislative Acts of Ukraine on Land Resources Management in the Territory of United Territorial Communities" (Pro vnesennya zmin do deyaknih zakonodavchykh aktiv Ukrayny schodo upravlinnya zemelnymy resursamy v mezhakh terytoriyi obyednanykh teritorialnykh gromad) in September 2017. It envisages the extension of powers of local self-government bodies of the united territorial communities in the field of land relations by:

- disposal of state-owned land;
- transfer of land plots of state ownership to the ownership of citizens and legal entities;
- provision of legal entities and individuals with land plots of state property for use within the limits defined by the Land Code;
- changes in the intended use of land plots of private property outside the settlements within the territory of the united territorial communities;
- sale to citizens and legal entities of state-owned land plots (except for land plots where objects are subject to privatization) for the needs specified in this Land Code;
- removal for public and other needs of land from state-owned land that was provided for permanent use, if the local self-government body manages these areas.

In accordance with this bill, the state retains the authority to dispose strategically important land plots, namely:

-natural-reserve and other nature-conservation purposes under the objects of the natural reserve fund of national importance;

-where buildings, structures, other objects of real estate of state ownership are located;

-which are in constant use of state authorities, state enterprises, institutions, organizations (including forestland, defense).

3. However, the alternative bill number 7118-1 with the same title "On Amendments to Certain Legislative Acts of Ukraine on Land Resources Management in the Territory of United Territorial Communities" was registered on October 4, 2017.

4. On December 6, 2017, the President of Ukraine submitted the bill No. 7363 "On Amendments to the Tax Code of Ukraine and Certain Legislative Acts of Ukraine regarding Promoting the Establishment and Operation of Small-scale Farms and Deconcentrating Powers in the Field of Land Relations" (Pro vnesennya zmin do Podatkovogo kodeksu Ukrayny schodo stymulyuvannya stvorennya ta diyalnosti dribnykh fermerskykh gospodarstv I dekonzentratsiyi povnovazhen u sferi zemelnykh vidnosyn).

The presence of a large number of bills indicates the importance and urgency of the solution of the issue of efficient management of land resources within and outside of settlements, decentralization of government in this area.

However, it might be advisable to adopt a Government project that is succinct and clearly regulates the issue of land resources management within the territory of the united territorial communities while still in the stages of creating capable territorial communities, through voluntary unification. Its adoption would be another instrument for motivating and accelerating the process of territorial communities unification.

The remaining bills refer to the entire system of local self-government. They significantly expand the list of issues that are proposed to be resolved by these bills. Therefore, they need more conciliation procedures and more time to resolve disputes in the context of timelines, organizational-development and technical terms.

The Government made a decision (Pytannya peredachi zemelnykh dilyanok silskogospodarskogo pryznachennya derzhavnoyi vlasnosti u komunalnu vlasnist obyednanykh terytorialnykh hromad, 2018) to begin the process of sub-dividing state owned land for agricultural purpose as of February 1, 2018, considering the uncertainty over the adoption of the above-mentioned bills by the Verkhovna Rada of Ukraine. This shall to be done within the limits defined by the perspective long-term plan for the formation of community territories with the subsequent transfer of these land plots to the communal property of the respective united territorial communities.

Experts' estimate that local budgets may increase by 30-40% from paying for land. The budget revenues of the united communities increased by 20% - to 1.4 billion UAH from payment for land in 2017. Thanks to the decision of

the Government, the budget revenues can significantly increase, since up to 7.2 million hectares, (of which 2.5 million hectares are not yet distributed among users), can be transferred to the disposal of the united territorial communities (Detsentralizatsiya zemelnykh vidnosyn zabezpechyt pist nadhodzhen do byudzhetiv vid splaty za zemlyu na 30-40%).

To sum up, it should be noted that the reform of local self-government and territorial organization of government requires a radical change in thinking, professional skills in drafting strategic plans for socio-economic development of communities; utilizing existing community resources; attracting investment, etc.

The acquisition of skills in public administration financial management, human resources in civil service and in local self-government bodies, and in particular, fostering leadership and team work between newly elected deputies of village, town, city councils of the united territorial communities and their rural, settlement and city mayors. This cooperation can be built through is carried out at seminars, trainings, conferences, round tables, and other events aimed at exchanging best practices of interregional and inter-municipal cooperation. Such events are carried out with the assistance and in cooperation with international projects and programs of technical assistance to Ukraine DESPRO, DOBRE, U-LEAD with Ukraine, PULS, and others as well as All-Ukrainian associations of local self-government bodies.

This work is carried out taking into account the needs arising from the implementation of reforms and activities of local authorities. The Government approved the Concept for reforming the system of vocational training of civil servants, heads of local state administrations, their first deputies and deputies, local self-government officials and local council members (Kontseptsiya reformuvannya systemy profesiynoho bnavchannya derzhavnykh sluzhbovtsiv, holiv mistsevykh derzhadministratsiy, yikh pershykh zastupnykiv ta zastupnykiv, posadovykh osib mistsevoho samovryaduvannya ta deputativ mistsevykh rad).

An important role in this process belongs to the annual competition of best practices, conducted under the Council of Europe methodology, expert and organizational support of the relevant Council of Europe Program.

This tool allows implementing social changes locally in a more effective way, verifying and, if necessary, clarifying the content and direction of the necessary changes, unifying economic activity and pragmatism.

Also there is a need to stress on such instrument as cooperation of territorial communities that is being successfully implemented in the state today in accordance with the provisions of the Law of Ukraine “On Cooperation of Territorial Communities” (Pro spivrobitnyztvo terytorialnykh gromad, 2014).

It allows consolidating the financial, organizational and other community resources to address common problem-solving issues in ensuring the life of such communities.

One hundred thirty three inter municipal agreements were concluded (among 587 territorial communities) as of February 1, 2018. They are aimed at realization of housing and communal services (34 contracts), landscaping (15), fire safety (16), education, health care, social security (28), other activities (40) (Monitoring).

For example, seven agreements of local self-government bodies were concluded in Ivano-Frankivsk region for road repairs, infrastructure development for tourism development, restoration of damaged water dams and shore-bolts, construction of new dams, construction of a complex of hydrotechnical structures, construction of solid domestic waste landfill with garbage sorting line. Eight such agreements were concluded in Poltava region including joint financing (maintenance) for the public utility for the maintenance of collection and transportation of solid household wastes, and renovation of the local fire brigade.

Along with positive examples of cooperation of territorial communities, it should be noted that this instrument is not yet sufficiently applied by local self-government bodies and it requires further practical implementation.

Therefore, it can be concluded that implementing the main provisions of The Concept of the Reform of Local Self-Government and Territorial Organization of Government in Ukraine and the listed in this article legislative acts can contribute to improving the effectiveness of local self-government bodies in addressing issues of improving the quality of life in territorial communities. It can be done through the establishment of effective local self-government as an institution of capable public authority, effectively using public resources and following sustainable development principles in all territorial entities of Ukraine, on a new spatial basis and responding adequately to social and economic challenges.

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Streszczenie

W artykule rozpatrzono podstawy normatywno-prawne reformowania samorządu terytorialnego i decentralizacji władzy na Ukrainie w warunkach wyzwań globalizacyjnych. Badanie opiera się na założeniu, że proces reformowania samorządu terytorialnego powinien dokonywać się synchronicznie z reformowaniem ustroju administracyjno-terytorialnego państwa.

Przeanalizowano szereg aktów normatywno-prawnych ukierunkowanych na poprawę prawodawstwa w sferze regulacji procesu kształtowania silnych gmin terytorialnych. Autor akcentuje, że przeniesienie pełnomocnictw władczych oraz zasobów na poziom zjednoczonej gminy terytorialnej włącza w proces zarządzania mieszkańców tych wspólnot. Dzięki temu mieszkańcy odczuwają osobistą odpowiedzialność za swój los i samodzielnie kreują maksymalnie efektywną infrastrukturę terytorium zjednoczonej gminy. Zjawisk to jawi się jako pozytywny aspekt reformy.

Rozpatruje się także problem przekazania organom samorządu terytorialnego pełnomocnictw w sferze zasobów naturalnych pozostających w granicach gmin terytorialnych. Wielka liczba projektów ustaw w tym zakresie świadczy o ważności i aktualności rozwiązania przywołanego problemu.

Zdaniem autora, celowym byłoby przyjęcie projektu rządowego, który by jasno uregulował problemy zarządzania zasobami naturalnymi właśnie w granicach zjednoczonych gmin terytorialnych. Jego przyjęcie stałoby się jeszcze jednym instrumentem motywacji i przyśpieszenia procesu zjednoczenia gmin terytorialnych.

Badane w tekście wybrane projekty aktów prawnych, które dotyczą całego systemu samorządu terytorialnego, znaczącą poszerzają spis problemów dotyczących stosownych reform. Dlatego wymagają one wdrożenia złożonych procedur negocjacyjnych. Potrzeba także sporo czasu w celu uregulowania spornych zapisów.

Szczególna uwaga zostaje zwrócona na współpracę gmin terytorialnych. Przytoczywszy pozytywne przykłady takiej współpracy, autor konstatuje, że instrument ten nie jest jeszcze wykorzystywany przez organy samorządu terytorialnego w wystarczającym stopniu, toteż wymaga istotnego zastosowania w przyszłości.

Słowa kluczowe: *samorząd terytorialny, decentralizacja zarządzania państwem, gmina terytorialna, ustrój administracyjno-terytorialny Ukrainy*

Резюме

В статье рассматриваются нормативно-правовые основы реформирования местного самоуправления и децентрализации власти в Украине в условиях глобализационных вызовов. Исследова-ние базируется на положении, что процесс реформирования местного самоуправления должен осуществляться синхронно с реформированием административно-территориального устройства государства.

Проанализирован ряд нормативно-правовых актов, направ-ленных на усовершенствование законодательства в сфере регулирования процесса формирования сильных территориальных общин. Автор акцентирует на том, что перенесение властных полномочий и ресурсов на уровень объединенной территориальной общины включает в процесс управления жителей этих общин. Благодаря этому жители ощущают личную ответственность за свою судьбу и самостоятельно определяют максимально эффективную инфраструктуру территории объединенной общины. Это является позитивным аспектом реформы.

Рассматривается также проблема передачи полномочий в сфере земельных ресурсов органам местного самоуправления в пределах территориальных общин. Наличие большого количества законопроектов на данный момент свидетельствует о важности и актуальности решения этого вопроса. По мнению автора, целесообразно было бы принять Правительственный проект, который бы четко урегулировал вопросы управления земельными ресурсами в пределах территории именно объединенных территориальных общин. Его принятие стало бы еще одним инструментом мотивации и ускорения процесса объединения территориальных общин.

Исследуются некоторые законопроекты, которые касаются всей системы местного самоуправления, значительно расширяют перечень вопросов, касающихся соответствующих реформ и поэтому требуют больше согласовательных процедур и больше времени на урегулирование спорных положений.

Обращается особое внимание на сотрудничество территориальных общин. Наряду с положительными примерами такого сотрудничества, автор констатирует, что этот инструмент еще не в достаточной степени применяется органами местного самоуправления и требует дальнейшего практического осуществления.

Ключевые слова: *местное самоуправление, децентрализация государственного управления, территориальная община, административно-территориальное устройство Украины.*

Анотація

В статті розглядаються нормативно-правові основи реформування місцевого самоврядування та децентралізації влади в Україні в умовах глобалізаційних викликів. Дослідження базується на положенні, що процес реформування місцевого самоврядування повинен відбуватися синхронно з реформуванням адміністративно-територіального устрою країни.

Проаналізовано низку нормативно-правових актів, спрямованих на удосконалення законодавства в сфері регулювання процесу формування спроможних територіальних громад. Автор наголошує на тому, що перенесення владних повноважень та ресурсів на рівень об'єднаної територіальної громади включає у процес управління жителів цих громад. Завдяки цьому жителі відчувають власну відповідальність за свою долю і самостійно визначають максимально ефективну інфраструктуру території об'єднаної громади. Це є позитивним аспектом реформи.

Розглядається також проблема передачі повноважень щодо земельних ресурсів органам місцевого самоврядування в межах територіальних громад. Наявність великої кількості законопроектів на даний момент свідчить про важливість та актуальність вирішення цього питання.

На думку автора, доцільно було б прийняти Урядовий проект, який би чітко врегулював питання управління земельними ресурсами в межах території саме об›єднаних територіальних громад. Його прийняття стало б ще одним інструментом мотивації та пришвидшення процесу об'єднання територіальних громад.

Досліджується решта законопроектів, які стосуються всієї системи місцевого самоврядування, значно розширюють перелік питань, що стосуються відповідних реформ і тому потребують більше узгоджувальних процедур та більше часу на врегулювання спірних положень.

Звертається особлива увага на співробітництво територіальних громад. Поряд з позитивними прикладами такого співробітництва, автор

констатує, що цей інструмент ще не в достатній мірі застосовується органами місцевого самоврядування і вимагає подальшого практичного впровадження.

Ключові слова: *місцеве самоврядування, децентралізація державного управління, територіальна громада, адміністративно-територіальний устрій України.*

Section 2.
LOCAL SELF-GOVERNMENT – THE EUROPEAN EXPERIENCE

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THE COMMITTEE OF REGIONS AS A REPRESENTATIVE OF LOCAL GOVERNMENT INTERESTS IN THE EUROPEAN UNION

Summary

The aim of the article is to analyse the political position and competence of the Committee of the Regions, as a representative of the interests of the European Union's local self-government communities. The Committee of the Regions in the institutional system of the European Union is a relatively new entity, but it managed to achieve a significant formal position in the EU political system. However, the weakness of functioning solutions is a relatively small real impact on the course of the day-to-day policy making.

Keywords: *Committee of Regions, European Union, citizens, self-government*

Introduction

The purpose of this article is to analyze the political stance of the European Union Committee of Regions (CoR) and to evaluate its structure and competences from the perspective of effective representation of local government interests in the European Union (EU). The hypothesis is that the current institutional solutions enable local government representation in the EU system but that the lack of formal means of shaping EU policy in theory and in practice presents a structural weakness.

The Formation of Local Government Inclusion in European Union Governance

Since the beginning of the European integration process in the 1950s, the Union was of an interstate and supranational nature. Before the 1980's, a problem existed in that only supranational and state level organizations of power were of scientific and practical interest to researchers and stakeholders (Putnam, 1988 pp. 431-434). For many years, the European integration process was contextualized as the interactions between the Member States and institutions; first the European Community, and now the EU. In the 1970s, however, the need to supplement the activity of the European Economic Community, in order to eliminate economic and developmental differences between the Member States, became apparent (Manzella, Mendez, 2009, pp. 2-8). In practice, these policies were based on bridging the gap between regions of the European Union

and addressing the developmental inequalities between the Member States was secondary.The developmental differences between regions present a critical obstacle to the success of the internal market and to deeper European integration.

This approach was intended to empower the regions of the European Union by establishing regional policy that ensured greater developmental consistency within the European Communities. This policy resulted in the emergence of a new analytical concept, the “Europe of Regions.” The transformation of the European integration process was such that the power would be shared by the supranational institutions and the regional ones. This transformation was intended to weaken and bypass the authority of the Member States (Borrás-Alomar, Christiansen, Rodríguez-Pose, 1994, pp. 1-23). This can be seen as a return to a federalist conceptualization of the EU, which had been particularly strong after the end of the World War II when it was recognized that the nation states had been responsible for the Wars and the greatest evil humanity had ever witnessed. It was believed that the elimination of the nation-state structures, to be replaced by a pan-European federation, was the best way to ensure eternal peace in Europe (Borkowski, 2006, pp. 92-92). Despite the emerging initiatives in the 1950s, the attempts to initiate the processes of transforming the European states into a federation failed. Because of the direction of regional policy and the empowerment of regions at the expense of the Member States, the concept of a European federation, based on the regions of Member States, has returned.

The outlined concept did not receive support from politicians or advocates of the European integration process. Due to the strengthening of the nation-state as an effect of the European integration process, it was impossible to substantially limit the power of the Member States and transfer their powers either to the level of regions or the level of the European Union itself. This was, however, the justification for the European Communities to turn to the concept of regional policy.

Regions have already been empowered, which has been primarily associated with the need to decentralize the powers of state authorities and for regions to be charged with the competences removed from the states because development funds would be allocated based on regional strategies and needs (Hübner, 2009, pp. 12-18).This decentralization was actually a prerequisite for obtaining financial support from the European Union funds (formerly the European Economic Community).

An irreversible supranational-level political process has been initiated but representatives of regional authorities recognized that there was a possibility to bypass national authorities and directly influence the decisions being made at the EU level. As a result, regional ambition to have their interests represented

in the EU has been growing. It has become apparent that the interests of the regional authorities are quite often divergent from the interests of the national authorities. Regional authorities have begun to seek allies to adopt specific legal and political policies at the EU level. The European Commission has recognized the political significance of making regional policies dependent on the relinquishment of central competences to local governments to create a bottom-up decision-making process within Member State governments.

The Committee of Regions: Appointment, Competences, and Political Position

The Member State's political decisions and processes yielded the following effects: federalization; decentralization; de-concentration and devolution; the 1994 foundation of the Committee of Regions, established in the Maastricht Treaty, signed 1 November 1993 (European Parliament, 2018). The rapid commencement of the Committee of Regions (CoR) can indicate its significance.

The misleading name of the Committee of Regions should be noted when analyzing the adopted legal solutions. The reference to the "Regions" may imply that the CoR only unites representatives of the largest and strongest European Union regions of governance. However, the establishing policy of the CoR clearly specifies that it represents the interests of all local governance communities that exist within the European Union Member States.

Membership in the Committee of the Regions is connected with the possession of a specific electoral mandate given either by the local or regional community, ora mandate given by local legislative authorities to an appointed representative to implement executive competences within the limits established by the legislative bodies (Consolidated, 2012a). Members of the Committee of Regions cannot be local government officials (e.g. in the voivodship) but must be appointed by the local government administration. An example of such a position in Poland is the function of the Head of the Voivodship, who is a representative of the voivodship-level government, with his own competences related to regional governance, but separate from the competences of the other voivodship-level government authorities.

The applied membership structure and the number of the members in the Committee of Regions allow for a comprehensive representation of the various interests of the local governments in the European Union. From the perspective of local governments, this is the most significant aspect of the CoR's ability to impact the EU decision-making process.

The advisory role provided by the CoR in regard to the European Parliament, the European Commission, and the Council of the European Union is enacted by submitting non-binding opinions to said institutions (Consolidated, 2012a).

According to the provisions in the Treaty on the Functioning of the EU and the various legislative procedures envisaged, there are three different situations in which the CoR can submit opinions regarding legal, strategic, and operational policy.

In the first scenario, the Treaty provides for mandatory consultation by the CoR. If the European Commission or other obliged institutions fail to provide a referral of the proposed act to the Committee, it will be a violation of the essential procedural requirements regarding the establishment of EU law and may result in the EU Court of Justice nullifying the act (Consolidated, 2012a).

Regarding the second scenario, seeking opinions from the CoR is discretionary. The legislative institutions can decide whether or not they want input from the CoR. Enacting operational policy without such inquiries to the CoR is rare, however, because the EU institutions attempt to make policy that best suits the needs of the EU citizens, and so utilizing the CoR is pragmatic.

The CoR may also offer an opinion whenever it deems necessary. This may be the case, when, despite the possibility to ask for an optional consultation as provided by the Treaty, none of the institutions have done so. This might also occur if the Treaty does not indicate the CoR as a potential advisory board regarding the subject of the proposed bill in question (Consolidated, 2012a). The CoR can, in these instances, initiate the offering of an opinion, and it happens quite often in practice.

As provided in the Lisbon Treaty, the CoR has the right to appeal the EU Court of Justice in the event that an act adopted by the EU violates one of the CoR competences. The mechanism of the nullification appeal is, in practice, a procedure which examines the specific constitutionality of the legal acts adopted by the institutions of the European Union (Consolidated, 2012a). It is a control to ensure that the secondary laws of the EU are in compliance with the primary laws, with the founding, revision, and accession treaties, and with the general principles of the laws on which the EU is established. There are few entities entitled to lodge such a complaint, so this CoR competence is significant.

The CoR's growing importance and strengthening of competences can be observed. In the past, the European Parliament did not have the full right to lodge such a complaint, but only had similar rights to those, which the CoR currently has (Single, 1987).

Having the right to lodge this complaint allows for a possible derogation from the legal system of normative acts that harm the interests of the local government communities. One of the premises of the analysis of this "constitutionality" is regarding the compliance of adopted solutions with the principle of subsidiarity

or the provisions of substantive law. This allows for a substantive assessment of the solutions adopted by the EU legislative institutions.

The control of the principle of subsidiarity primarily protects the unnecessary transfer of the competences from the state (regional) level to the level of the EU. This is a particularly important general rule of the EU law, which recognizes that all legislative activities should be carried out as close to the EU citizen as possible (*Consolidated*, 2012b) so the citizens can affect policy and be sufficiently represented. Failure to consult the CoR when it is legally required, as provided in the Treaty, makes it possible to annul an act, even though the opinions issued by the CoR are non-binding.

From the perspective of the EU institutions, the CoR is an important instrument for connecting with constituents and citizens of the EU. In practice, the CoR representatives have the closest contact with EU citizens on a daily basis. The CoR can be an informative, debatable, and persuasive channel between the institutions of the European Union and citizens. The CoR is able to inform the EU institutions about the citizens, and the EU integration process much more effectively than states' central authorities because the CoR knows the problems, the perceptions, and the aspirations of the citizens from every community. This communication channel is being underutilized because the concentration of activity takes place in bilateral relations between the EU institutions and the local authorities of the Member States. It could be said that the representation of the interests of local communities gets relegated to an afterthought in relation to the representation local governing authorities.

Much depends on the activities of the Committee, not only as a body, but its representatives who may potentially enter, due to the mandate of interactions with legislative institutions, the European Parliament and the European Commission. Contact with the Commission, which is responsible for proposing new EU legislation, is particularly significant. The Commission, like the CoR, should act in the interest of the entire EU, and in the Committee's case, action in the interest of the entire EU is guaranteed because of the nature of the interests represented by this consultative body.

Conclusion

As demonstrated in this analysis, the institutional solutions applied in EU law provide for the structural representation of the interests of local governments and members of local communities at the EU level. The current solutions are more about the nature of information channels than the instruments realizing the interests of these communities. There has been, however, evolution in this regard.

The evolutionary growth is based on the point of reference for the analysis of how the influence and constituent position of the Committee of Regions becomes the role of the European Economic and Social Committee, which has been established, almost since the beginning of the European Communities, to represent employees, employers and other civil society groups. The CoR, however, has the competence to instigate the process of eliminating acts from the legal system that are incompatible with EU law, which enables it to defend its own competences and interests.

The right to provide opinions is the only real instrument the Committee of Regions has to influence the decision-making process, and thus the legislative process of the European Union. Granting the CoR the right to protect this competence is invaluable in the defense of the interests of the Member States' local government communities, at the level of the European Union. The legal structure indicates the preference of representing the interests of the local government communities of the Member States rather than the interests of social and professional groups, since the Economic and Social Committee has no analogous powers, despite the fact that it has been in the legal and political system longer.

A solution that sometimes arises is the transformation of the Committee of Regions into a "third" legislative chamber, next to the European Parliament and the Council of the European Union, which represents the subnational level, a third level of governance in the EU. However, currently, there is a lack of support for this proposition from the Member States and the European Parliament, which would lose its privileged status. So unfortunately, this concept will fall into political non-existence.

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Streszcznie

Celem prezentowanego artykułu jest analiza pozycji ustrojowej Komitetu Regionów Unii Europejskiej oraz ocena konstrukcji i kompetencji tego organu doradczego, z perspektywy skutecznej reprezentacji interesów samorządu terytorialnego na forum Unii Europejskiej. Hipoteza badawcza podlegająca weryfikacji zakłada, iż rozwiązania instytucjonalne obecnie funkcjonujące umożliwiają reprezentację interesów wspólnot samorządowych w systemie instytucjonalnym Unii Europejskiej. Jednakże słabością o charakterze strukturalnym jest brak formalnych i realnych instrumentów wpływu na kształtowanie polityk UE.

Keywords: *Komitet Regionów, Unia Europejska, obywatele, samorząd.*

Резюме

Цель данной статьи - проанализировать политическую позицию Комитета регионов Европейского Союза и оценить структуру и компетенцию этого консультативного органа с точки зрения эффективного представления интересов местного самоуправления на форуме Европейского союза. Предполагаемая гипотеза исследования состоит в том, что существующие в настоящее время институциональные решения позволяют представлять интересы общин самоуправления в институциональной системе Европейского Союза, однако структурная слабость заключается в отсутствии формальных и реальных инструментов влияния на формирование политики ЕС.

Ключевые слова: *Комитет регионов, Европейский Союз, граждане, органы местного самоуправления.*

Анотація

Мета даної статті - проаналізувати політичну позицію Комітету регіонів Європейського Союзу і оцінити структуру і компетенцію цього

консультативного органу з точки зору ефективного представлення інтересів місцевого самоврядування на форумі Європейського Союзу. Передбачувана гіпотеза дослідження полягає в тому, що існуючі в даний час інституційні рішення дозволяють представляти інтереси громад самоврядування в інституційній системі Європейського Союзу, проте структурна слабкість полягає у відсутності формальних і реальних інструментів впливу на формування політики ЄС.

Ключові слова: *Комітет регіонів, Європейський Союз, громадяни, органи місцевого самоврядування.*

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THE DECENTRALIZATION ISSUES IN UKRAINE: CHALLENGES AND THREATS THROUGH THE PRISM OF EUROPEAN EXPERIENCE

Summary

The reforms of decentralization and local self-governance in Ukraine began to move from a theoretical to a practical level. This paper is devoted to studying the main problems of implementing decentralization and local self-government reforms based on the experience of different countries. Therefore, the main purpose of the research is to characterize the problematic issues of implementing decentralization and local self-government reforms in Ukraine. For carrying out the research assignments general scientific methods (such as synthesis, analysis), and special ones (comparative, historical, systemic) were used. As a result of the study, the authors came to the conclusion that decentralization and local government reforms should be implemented in Ukraine according to a three-stage algorithm. But there are a significant number of problems at the first stage. The most important one is the opposition of the population to the unification of the competent territorial communities. The second stage of implementation ensures changes in the administrative-territorial structure and the introduction of the position of the prefect. The third stage is connected with the creation of an appropriate regulatory framework with amendments to the Constitution of Ukraine. This stage also has some inconsistencies and problems. The legislative process is becoming more political and is accompanied by speculation of themes that are critical for Ukrainian society. As a result, the long-term nature of the decentralization process could become a reason for rejection by the population of the whole reform. The above-mentioned problems need to be solved through political dialogue to accelerate the reform.

Keywords: *decentralization, local self-government, territorial community, united territorial communities (UTC), competent territorial community, "reasonable growth of territorial communities".*

Decentralization and local government reforms in Ukraine cause a significant number of conflicting views on the conceptual model and mechanisms

for implementing reforms. In general, it is possible to distinguish between two points of view of the reform among researchers and practitioners. Some of them believe that the process of decentralization and local self-government reform will lead to the development of regions, rise of civil responsibility, development of local self-government. Their opponents consider that decentralization is not needed, unlike the improvement of tax system and budget distribution. The opponents of decentralization believe that the reforms will lead to the "extinction" of the village. Such an ambiguity of views on the decentralization and local self-government reform confirms the relevance of this study.

The issue of decentralization and local self-government reform is increasingly being discussed in the scientific community. Different conceptions and models of implementation of reform are considered. Since this process is rather dynamic, it is necessary to comprehensively analyze the successes and failures of each stage of these reforms in Ukraine. The latest publications are based on the research supported by the Council of Europe, the Institute of Civil Society and the National Academy of Public Administration under the President of Ukraine. Four study guides on local self-government and decentralization reform were prepared: "Local government in a decentralized environment" (Lelechenko, Vasylieva, Kuibida & Tkachuk, 2017, passim), "Management of the development of united territorial communities on the basis of public participation" (Berdanova, Vakulenko, Hrynchuk, Koltun, et al, 2017, passim), "Resource provision of the united territorial community and its marketing" (Borshch, Vakulenko, Hrynchuk, Dekhtiarenko, et al, 2017, passim), "Local budget and financial support of the united territorial community" (Vasylieva, Hrynchuk, Derun, Kuibida, et al, 2017, passim). The issue of decentralization is also considered in the system of interaction between state authorities and local self-government (Yevtushenko, Andriiash & Parovai, 2016, pp. 54-59). Also, the regional features of the territorial communities' association are still relevant (Khandii, 2016, pp. 137-145). The issues of decentralization and local self-government reform are often considered in the field of political science and public administration comprehensively (Honcharuk & Serohin, 2016, pp. 227-240). In deciding the managerial aspects of decentralization, we pay considerable attention to the legal sphere, in particular the doctrinal principles of the formation of the institution of decentralization in the administrative legislation of Ukraine (Kazanchuk, 2016, pp. 77-83).

Despite a wide range of research issues on decentralization in Ukraine there are not so much research of the problematic aspects of reforms in political science. Therefore, the purpose of this paper is to characterize the problematic issues of implementing decentralization and local government reforms in Ukraine.

Considering the problematic issues of decentralization in Ukraine, it is necessary to define the concepts of "decentralization" and "centralization". Decentralization is a "process of expanding and strengthening the rights and powers of administrative-territorial units or lower bodies and organizations while simultaneously narrowing the rights and powers of the relevant center in order to optimize and increase the efficiency of management of socially important affairs, the most complete realization of regional and local interests" (Lushahina, 2014, p. 162); "a system of distribution of functions and powers between the state and local levels of government with the extension of the rights of the last ones" (Lelechenko, Vasylieva, Kuibida & Tkachuk, 2017, p. 6-7). In other words, decentralization involves the transfer of powers from the center to the regions. Depending on the predominance of one factor, we should distinguish between financial, administrative and political decentralization. As for the issue of centralization, this process was typical for Ukraine until 2015. Centralization is a "process of focusing the main powers and functions of leadership and management, concentration of power in one decision-making center" (Uhryn, 2014, p. 736).

Starting from 2015, decentralization and local self-government reforms have been actively launched in Ukraine. This complex of reforms envisaged three stages:

- The first stage envisaged the reorganization of local councils and the creation of united territorial communities with the further liquidation of districts and relevant councils;
- The second stage should have become the basis for administrative-territorial reform – the creation of prefectures as administrative-territorial units of the regional level;
- The third stage meant "the introduction of amendments to the Constitution of Ukraine. The purpose of the proposed changes is to streamline local government and executive power, and to build an effective system of territorial organization of power in Ukraine. The number of districts should have remained unchanged" (Lelechenko, Vasylieva, Kuibida & Tkachuk, 2017, p. 48).

It is necessary to consider the characteristics of each stage. According to the Law of Ukraine "On Local Self-Government in Ukraine", the territorial community is defined as "residents who are united by permanent residence within the limits of a village, settlement, city, which are independent administrative-territorial units, or a voluntary association of inhabitants of several villages that have a single administrative center" (Article 1). Moreover, the unification into territorial communities should take place at the grassroots level without the participation of

the state on a voluntary basis. The main problem of territorial communities of the pre-reform period was their lack of funding, taking into account the centralized budgeting. In addition, there was often a duplication of functions of local self-government bodies and state administrations. One more factor in the ineffective functioning of territorial communities was their quantitative composition, in particular, the large dispersal. As a result even the maintenance of the apparatus of local self-government was very problematic, apart from the resolving the issues of local importance. So, the activity of such territorial communities was not functional and ineffective. Similar problems have also been encountered by some European countries, in particular the Baltic States. For example, "there were 581 administrative units on two levels before the decentralization process in Lithuania, and then became 70 on two levels" (Sas, 2016). The consolidation of administrative and territorial units provided an opportunity for the development of small territorial communities, their maintenance and infrastructure development.

The dynamics of the formation of united territorial communities (UTC) in Ukraine (as of April 10, 2018) shows that since the start of the reforms (from 2015) 3378 territorial communities have united into 728 UTCs. However, the number of unincorporated territorial communities remains significant. There are still 7837 of them (Monitoring of the process of decentralization of power and local self-government reform as of 10 April 2018). So the main question is: why do the majority of the territorial communities remain unincorporated?

Firstly, the territorial communities are not reformatted in the UTCs because of the lack of sufficient information on the positive and negative aspects of such association. This fact leads to a distorted perception of information such as the "disappearance or extinction of the village". As a result, "the creation of united territorial communities mostly doesn't have enough support from a significant number of people, because people do not understand the process of decentralization itself, and also face the opposition from district administrations and local councils. They hinder the formation of UTCs due to fear of losing jobs and powers, as the process of their creation is accompanied by the reformation of the authorities and changes in governance for the benefit of communities" (Kuzub, 2017).

Secondly, many territorial communities are characterized by "unjustified financial optimism" (by auth.). It means that such territorial communities believe that they will be able to function independently without any unification or by associating with one village to meet their financial needs. But in this case, as a result of strategic planning, it turns out that such territorial community will not be competitive. The most effective are UTCs, which include several villages and preferably the city. Thus, the question arises of what to do with the territorial

communities that willingly do not want to unite. Foreign experience offers the following options. For example, in Latvia, in the case of a voluntary association of districts, the state provided a one-time subsidy for infrastructure development and a grant of 5% to the total budget of the combined municipalities for a certain period (2009). After that the consolidation of self-governments was carried out without subsidies forcibly. In Denmark, if the municipalities did not agree to join, the Minister of the Interior intervened. Then in France forced aggregation was not carried out at all. Thus, today the problem of the financial capacity of small communities is critical in the country" (Khandii, 2016, p. 139).

Thirdly, there is a problem in the lack of qualifications of officials of local self-government bodies. In the process of unification there should be a skilled expert assessment of possible alternatives for the effective functioning of the competent territorial communities. According to the "Methodology for the formation of competent territorial communities", the territorial community of villages (towns, cities) should be called a "competent territorial community", which, as a result of a voluntary association, can independently or through local self-government bodies provide the appropriate level of provision of services, in particular in the field of education, culture, health care, social protection, housing and communal services, taking into account human resources, financial support and infrastructure development of the relevant administrative-territorial unit" (Resolution of the Cabinet of Ministers of Ukraine, 2015). The problem is that some territorial communities cannot objectively assess their ability to effectively organize and provide the proper level of services. The solution to this problem may be in inviting an expert for the strategic planning of the development of UTC with the further training of local government officials. In other words, there should be a professional service in the bodies of local self-government, so the law on the reform of the public service should be adopted.

Fourthly, considering the weakness of civil society institutions in Ukraine, there is a problem of mechanisms for controlling budget funds. V. Kuzub notes that "in the conditions of budget decentralization there is a need for proper control over the work of various levels of government at the planning and implementation of their budgets, management and use of financial resources. In order to solve this problem it is necessary: 1. to provide effective previous and current state financial control over their activities; 2. to ensure maximum transparency of local government activities and their control by the public" (2017). So, it is necessary to set out clearly at the legislative level the mechanisms of control by the territorial community of budget expenditures, which should be accompanied by the real ability of the territorial community to withdraw the deputy of the local council or its head as a result of inappropriate use of UTC funds.

Fifthly, the system of interaction between state administrations, UTC councils and rayon (district) councils remains complicated. In a transitional state without the appropriate regulatory framework, difficulties arise in transferring powers to UTC councils, as well as the relevant financial income. In particular, it is important to consider the efficiency of maintaining numerous administration staff, taking into account financial decentralization.

Sixth, the constraining factor of decentralization is its ethnization, that is, "the use of an ethno-national factor to mobilize the electorate through speculation in community unification in a format in which representatives of national minorities lose the majority. In turn, in the process of decentralization it is important to pursue a policy of preventing the formation of isolated enclaves" (Decentralization in Ukraine: achievements, hopes and fears, 2017, pp. 12-13).

The creation of competent united territorial communities is only the first stage of decentralization. The Concept of Reforming of Local Self-Government and Territorial Organization of Power in Ukraine has been approved since 2014. It is also in force for 2018. The basis of this Concept was the definition of vectors and mechanisms for the formation of effective local government bodies and competent territorial communities. Relevant reforms were supposed to ensure the complete reformatting of local authorities, reorganization of the scope of public services, the establishment of institutions of direct democracy, etc. The concept also ensured the administrative-territorial reform. Accordingly, it was proposed to introduce a three-level structure of the administrative division: "basic (administrative-territorial units – communities); district (administrative-territorial units – districts); regional (administrative-territorial units – Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol)" (Concept of reforming local self-government and territorial organization of power in Ukraine, 2014).

In 2015, in the course of administrative-territorial reform, the President of Ukraine P. Poroshenko submitted to the Verkhovna Rada of Ukraine a Draft law On amendments to the Constitution of Ukraine (about the decentralization of power). According to this Project "the administrative-territorial system of Ukraine is made up of administrative-territorial units: communities, districts, regions. The territory of Ukraine is divided into communities. The community is the primary unit in the system of administrative-territorial organization of Ukraine. Several communities form the district. The Autonomous Republic of Crimea and the districts are the regions of Ukraine. The specifics of Kyiv, Sevastopol in the system of the administrative-territorial system of Ukraine are determined by separate laws" (Draft Law On Amendments to the Constitution of Ukraine (about the decentralization of power), 2015, article 133). This

three-level structure implies the introduction of the prefect's position. The prefect is a civil servant and a representative of the executive branch in the districts and regions of Kyiv and Sevastopol. He is responsible to the President of Ukraine, and is accountable to the Cabinet of Ministers of Ukraine (Draft Law on Amendments to the Constitution of Ukraine (about the decentralization of power), 2015, article 118).

This Law stipulates that starting with March 1, 2018 the system of prefectures should function in Ukraine. However, the Law is under consideration by the parliament. The creation of prefects' posts as an alternative to state administration is at the stage of discussions and controversy. This is due to several problems:

1. Politicization of the process of decentralization reform by various political forces in order to speculate on it. The process of decentralization is rather ambiguously perceived by the Ukrainian people, and the process of uniting the territorial communities is connected with a large number of fears. Also political forces often manipulate by such an unstable situation for their own political benefit. As a result, fundamental decentralization laws are still under discussion. This situation slows down the reform process, which increases the percentage of negative risks. After all, the reform that goes on for more than 10 years is no longer perceived by citizens. But it raises the question of expediency of using the state budget in this direction.

2. Mostly draft laws on decentralization remain in a state of development. As a result the introduction of the prefect institute in Ukraine is slowed down. Thus, a significant number of political myths emerge around the second stage of decentralization. For example, "the most common myth of the Ukrainian prefect is the presence of such powers that will allow him to usurp power in regions" (Solvar, 2016). In fact, the law should give to prefect the functions of control and coordination, which are much narrower compared with the ones of state administrations. Thus, the Draft Law of Ukraine "On Amendments to the Constitution of Ukraine (About the Decentralization of Power") says that the prefect:

1) Supervises the observance of the Constitution and laws of Ukraine by local self-government bodies.

2) Coordinates the activities of territorial bodies of central executive power and oversees their compliance with the Constitution and laws of Ukraine.

3) Ensures implementation of state programs.

4) Directs and organizes the activities of territorial bodies of central executive power and ensures their interaction with local self-government bodies in war or emergency, or environmental emergency.

5) Carries out other powers as defined by the Constitution and laws of Ukraine (Draft Law on Amendments to the Constitution of Ukraine (about the decentralization of power), 2015, Article 119).

In fact, the reform assumes that the prefect must ensure the constitutionality and legality "in the territory of the certain administrative-territorial unit, human rights and freedoms and their guarantees, which determine the content and direction of the state activity as a whole" (Hanushchak, 2015, p. 18).

Also, the most common myths are the next: "total control of the prefect by the head of state", "the prefect will be able to block easily the work of local bodies by suspending the acts issued by them", "the community will not be able to remove the prefect from the post" (Solvar, 2016). All these myths about the prefect are the result of the lack of clear legislation on mechanisms of interaction between local governments and the prefect. The prefect has an important role. He should monitor the law and prevent the manifestations of local separatism. It is assumed that the post of the prefect should be administrative, not political. This means that the prefect does not depend on the rotation of the political forces and should be chosen only by professional abilities, and not political affiliation.

Considering the examples of the Prefect Institute in European countries, Y. Hanushchak gives an example of France, where the institution of authority was first legalized in 1799 (Hanushchak, 2015, p. 6) and had several options for reorganization. The last reorganization was in 1964. It was supposed that the prefect had to "be responsible for the abidance of law, the implementation of the policy of the central government. If necessary, he must reach agreements with bodies of local self-government. The Prefect is a supervisory body for local self-government bodies. He is responsible for protection of people in all senses" (Hanushchak, 2015, p. 8). Exactly the same version of the Prefect Institute was proposed for Ukraine. The difference is in the next fact: the Ukrainian prefect will not chair the state executive local bodies, but will coordinate their activities. Also Ukrainian prefect will not have the authority to manage local budgets.

3. The issue of local self-government in temporarily uncontrolled areas remains relevant. According to experts, "resolving the situation on the territory of certain regions of Luhansk and Donetsk oblasts is impossible without changing Russia's policy towards Ukraine. When Ukraine gets control over the border with Russia, it will become necessary to introduce a special regime of governance in these areas that will operate during the transition period. At the end of the transition period, these regions should join the process of decentralization and management reform at the same level as other regions of Ukraine" (Decentralization in Ukraine: achievements, hopes and fears, 2017, p. 22).

Consequently, the second stage of decentralization in Ukraine is only under development and discussion. As on April 2018, 7837 communities remain unincorporated. This is 69.9% of the total number of base councils (as of 01.01.2015). In 63 communities, the first elections were scheduled for April 29, 2018 and some of them are waiting for the decision of the Central Election Commission about the appointment of the first elections (Monitoring of the process of decentralization of power and local self-government reform as of 10 April 2018). Such data suggest incompleteness of the first phase of decentralization. Although it is expected that elections for all UTCs will take place in 2020 which means the completion of decentralization at the grass-roots level. Then the functional division of powers between local government and local government should take place.

Another interesting issue in the process of decentralization is the adoption of the Law of Ukraine "On Cooperation of Territorial Communities" (2014). According to this Law, "cooperation of territorial communities" means relations between two or more territorial communities carried out on a contractual basis in the forms specified by this Law in order to ensure the socio-economic, cultural development of territories, to improve the quality of provision of services to the population on the basis of common interests and goals, effectively execute powers of local self-government determined by law" (Law of Ukraine "On Cooperation of Territorial Communities", 2014, article 1). Cooperation provides the opportunity to improve the quality of services or create new ones, to attract investments, invite qualified staff, etc. However, according to the Register of Territorial Communities Cooperation Agreements, as of April 19, 2018, only 180 cooperation agreements have been signed (Register of Territorial Communities Cooperation Agreements, 2018). Taking into account the total number of territorial communities in Ukraine, it can be concluded 180 territorial communities agreements are not enough to operate a system of competent territorial communities. This is the result of low awareness and qualifications of local self-government bodies. A perspective plan of cooperation agreements could be the first step towards understanding the positive aspects of the activities of the united territorial communities and debunking artificially created myths to avoid forcible association, etc.

Analyzing the experience of European countries, the compulsory association of territorial communities is highly probable at the final stage (for example, the case of Estonia). The process of decentralization will have several stages. The first is voluntary and involves financial incentives for those who have chosen the way of association (in the form of state grants, for instance). The government planned to initiate integration without financial compensation for those communi-

ties that refused to volunteer (Lushahina & Soloviova, 2016, pp. 82-83). In fact, the signing of cooperation agreements between territorial communities can help to avoid a coercion stage in the process of decentralization. This fact will avoid the opposition among "disagreeable" territorial communities. Such agreements should promote "reasonable growth in the united territorial communities". The term "reasonable growth of territorial communities" was introduced into the scientific discourse by A. Tkachuk. The peculiarities of the definition of "reasonable growth of territorial communities" were recorded in the Declaration "Reasonable growth of territorial communities" (2017).

"Reasonable growth of territorial communities" envisaged development in 5 main directions:

1. A reasonable education that teaches you to adapt quickly in a modern world and inspires the generation of new ideas.

2. A reasonable local economy would attract the maximum number of inhabitants to entrepreneurship because it is based on its own competitive advantages and resources.

3. A reasonable living space organization in which citizens have access to basic goods and services. The land on which the community resides is used as efficiently as possible and preserved for future generations.

4. A reasonable use of resources and environmental protection, which obliges to use the most non-renewable resources as efficiently as possible and develop production on the basis of processing of waste from other industries.

5. Intelligent people who cultivate a healthy lifestyle, activity, employment and self-employment, life-long education and, in general, self-sufficiency of the whole community (Lelechenko, Vasilieva, Kuibida & Tkachuk, 2017, p. 93).

Consequently, according to researchers, the result of the decentralization process in Ukraine should be the next:

- "a clear separation of the spheres of activity, respective functions and all kinds of responsibilities between the central, regional and local levels of government and local self-government, on the principle of subsidiarity and the empower communities to the widest possible range of powers";

- "consolidation of the principle of decentralization in the Constitution of Ukraine in the realization of state power, the ubiquitousness and competence of local self-government";

- "attainment of agreement in the budget process, provision of financial resources of powers of local self-government bodies, including their participation in national taxes";

- "a clear definition of services that should be provided by each level of government, improving their quality" (Yevtushenko, Andriiash & Parovai, 2016, p.).

However, despite the scientific research of the problem of decentralization reform, the preparation of methods and declarations, the third phase of the reform is also in a state of discussion and debate and has the most political undertone. The third stage envisages the introduction of amendments to the Ukrainian legislative base and the formation of the regulatory framework for the activities of local self-government bodies and local executive authorities with a clear distribution of their powers and mechanisms for their implementation.

The drafting of the regulatory framework means the final adoption of a number of draft laws that are currently in a state of consideration. But without these laws the reform of decentralization and local self-government is impossible. Among them the main ones are the following:

- “On amendments to the Constitution of Ukraine”. This law defines the constitutional basis for the division of powers between local government and executive power, their resource capabilities and responsibility for their activities before electorate and the state (Lelechenko, Vasilieva, Kuibida & Tkachuk, 2017, p. 50).

- Draft Law on Amendments to the Constitution of Ukraine (About Decentralization of Power) No. 2217a dated 01.07.15. The President of Ukraine P. Poroshenko was the initiator of the law. The draft law was previously approved on August 31, 2015. However, that legislative process was politicized too much. Therefore, a rally was held under the Verkhovna Rada of Ukraine in order to prevent changes to the Constitution of Ukraine. As a result of the fighting, four national guards were killed. So the Draft Law is in a state of consideration as of today.

- Draft Law on the Principles of the Administrative-Territorial System of Ukraine No. 8051 dated 22.02.18. This project is under consideration it the committee. The law defines the main provisions of the administrative-territorial structure of Ukraine, the procedure for the formation, liquidation, establishment and change of administrative-territorial units. It has to consolidate the three-level system of the administrative-territorial structure: the community - the district - the region.

- Draft Law on amendments to certain laws of Ukraine concerning the creation, reorganization and liquidation, naming and renaming of local state administrations No. 6641 dated June 23, 2017. The adoption of this law gives the Cabinet of Ministers the right to reorganize, liquidate, name and re- name local state administrations. Now the bill is waiting for consideration.

- Draft Law on Amendments to certain legislative acts of Ukraine about the extension of the powers of local government bodies of territorial communities to the entire territory of the certain rural, town and city territorial community

No. 5253 dated 07.10.2016. Adoption of amendments to the Law of Ukraine "On Local Self-Government" should outline the features of the formation of the territorial communities' boundaries and the extension of local self-government bodies' powers in relation to them. The law is under consideration in the committee.

- Draft Law On Public Consultations No. 7453 of 27.12.2017. It should define the basic standards for the implementation of public consultations by local authorities and state authorities in order to involve the public and other stakeholders in developing a regional development policy, solving issues of local importance. The bill is being processed by the committee.

So, a problem of forming a legal framework emerges while considering the third stage of the decentralization reform. We reviewed only the main draft laws that have to be immediately discussed with subsequent adoption. But there are still a significant number of unresolved legislative issues that should ensure the proper implementation of the reform in Ukraine.

Particular importance in the process of decentralization and local government reforms should be given to the public awareness of the adoption of transparent decisions connected with providing services, their alternative organization; and also about receipt of budget funds and their spending. The awareness of the territorial community and its active participation in the development of the region will enable avoidance of the inappropriate use of financial funds, prevent corruption violations in the activities of local self-government bodies. For instance, the example of Estonia. In the process of decentralization the following innovations were introduced in Estonia: any local self-government acts should be published on the Internet. If the document did not appear on the network, it is not valid. Local self-government acts are checked by the county chief (praepostor) either on their own initiative or on an individual complaint. After that, if there are some reasons, the county chief makes a statement about the illegitimacy of the act and asks the local self-government body to make changes to the document. This submission stops the act. If the local self-government does not agree with the decision, the community should go to court in order to resume it (Lushahina & Soloviova, 2016, p. 82).

Consequently, the reform of decentralization in Ukraine involves a number of related reforms and a complete reformatting of relations between public authorities and local self-government bodies. Decentralization is a system of challenges for state power and for the people. It is an opportunity not to demand from the state, but to strive for solving issues of local importance by territorial communities themselves; an opportunity to participate in working-out the directions of regional development; to show itself as a society with an active civic

position. Decentralization is a complicated process of formation of a regulatory and legal framework, especially taking into account the issue of self-government in a temporarily uncontrolled territory. Decentralization reform gives a positive impetus for an outdated model of local self-government in Ukraine. However, there are also a significant number of risks associated with certain problems of reform implementation. One of the main risks is the low awareness of the population about the issue of decentralization in Ukraine, its features and positive effects. This fact generates a number of myths and misgivings about association in the community. The branched system of territorial communities in Ukraine has led to their failure to operate independently. As a result, there are two possible ways of development – association and / or cooperation. The three stages of decentralization have a number of issues and problems when implemented, which often become a cause for political speculation.

Now decentralization reform is at the stage of creating a competent united territorial community, which is gradually accompanied by discussion of the regulatory and legal documents that are necessary for the implementation of the reforms. In fact, the main complication of the reform is the long-term nature of the decentralization process. If we want to accelerate it, the above-mentioned problems need to be solved through the political dialogue.

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Streszczenie

Reformy decentralizacji i samorządu terytorialnego na Ukrainie zaczynają przechodzić z płaszczyzny teoretycznej na praktyczną. Realizacja procesu reformatorskiego napotkała na swej drodze znaczącą ilość przeszkód, które zaczęły go hamować. Dane badanie poświęcono zgłębieniu głównych problemów związanych z realizacją reform decentralizacji i samorządu terytorialnego w oparciu o zebrane doświadczenia. Stąd główny cel badania stanowi charakterystyka kwestii problematycznych związanych z wdrażaniem reform decentralizacji i samorządu terytorialnego na Ukrainie. Realizując sformułowany cel wykorzystano metody z zakresu ogólnego postępowania badawczego: analizę i syntezę, jak również metody z zakresu szczegółowego postępowania badawczego: porównawczą, historyczną, systemową, problemową. Na podstawie badania autorzy doszli do wniosku, że reformy decentralizacji i samorządu terytorialnego powinny być wdrażane na Ukrainie w trzech etapach, jednak już na pierwszym etapie pojawia się poważna ilość problemów. Głównym z nich jawi się niezgoda ludności na jej zespolenie w ramach gmin terytorialnych. To natomiast wiąże się przede wszystkim z niską świadomością zarówno społeczeństwa, jak i działaczy pełniących funkcje samorządowe w zakresie specyfiki przeprowadzanych reform oraz ich pozytywnych i negatywnych następstw. Drugi etap wdrożenia powinien przewidywać zmiany ustroju administracyjno-terytorialnego i wprowadzenie instytucji prefekta. Jednakże, o ile w teorii drugi etap planowano rozpocząć w roku 2018, to w praktyce nie udało się go zrealizować. Trzeci etap przewidywał stworzenie bazy normatywno-prawnej poprzez wniesienie zmian do Konstytucji

Ukrainy określających specyfikę organizacji samorządu terytorialnego, lecz również i ten etap pozostaje problematyczny. Długotrwałość procesu decentralizacji może doprowadzić do sytuacji, w której społeczeństwo odrzuci reformę w całości. W celu jej przyspieszenia należy rozwiązać przywołane wyżej problemy w toku dialogu politycznego.

Słowa kluczowe: *decentralizacja, samorząd terytorialny, gmina terytorialna, zespolone gminy terytorialne (ZGT), stosowna gmina terytorialna, „rozsądny rozmiar wspólnot terytorialnych"*

Резюме

Реформы децентрализации и местного самоуправления в Украине начали переходить из теоретической плоскости в практическую. Реализация реформного процесса получила на своем пути значительное количество препятствий, которые начали тормозить этот процесс. Данное исследование посвящено изучению основных проблем реализации реформ децентрализации и местного самоуправления на основе уже полученного опыта. Поэтому основная цель исследования – характеристика проблемных вопросов внедрения реформ децентрализации и местного самоуправления в Украине. Для реализации цели исследования были использованы общенаучные методы, такие как анализ синтез, а также специальные – сравнение, исторический, системный, проблемный. В результате исследования, авторы пришли к выводу, что реформы децентрализации и местного самоуправления должны внедряться в Украинев три этапа, но уже на первом этапе возникает значительное количество проблем. Главной является сопротивление населения к объединению в состоянии территориальные общины. Это связано в первую очередь с низкой осведомленностью населения да и самих должностных лиц местного самоуправления относительно особенностей проведения реформ и их позитивных и негативных последствий. Второй этап внедрения должен предусматривать изменения административно-территориального устройства и введение должности префекта. Однако, если в теории, второй этап планировалось начать с 2018 года, то практически это осуществить еще не удалось. Третий этап предусматривал создание нормативно-правовой базы с внесением изменений в Конституцию Украины относительно особенностей осуществления местного самоуправления, но и на этом этапе возникают проблемы. Как результат, длительность процесса децентрализации может привести к неприятию населением реформы вообще. Для ее ускорения необходимо решение указанных выше проблем путем политического диалога.

Ключевые слова: *децентрализация, местное самоуправление, территориальная община, объединенные территориальные общины (ОТО), способная территориальная община, «разумный рост территориальных общин».*

Анотація

Реформи децентралізації та місцевого самоврядування в Україні почали переходити із теоретичної площини в практичну. Реалізація реформного процесу отримала на своєму шляху значну кількість перепон, які почали гальмувати цей процес. Дане дослідження присвячене вивченню основних проблем реалізації реформ децентралізації та місцевого самоврядування на основі вже отриманого досвіду. Тому основна мета дослідження - характеристика проблемних питань впровадження реформ децентралізації та місцевого самоврядування в Україні. Для реалізації мети дослідження були використані загальнонаукові методи, такі як аналіз синтез, а також спеціальні – порівняння, історичний, системний, проблемний. В результаті дослідження, автори дійшли висновків, що реформи децентралізації та місцевого самоврядування мали впроваджуватися в Україні за триетапним алгоритмом, але вже на першому етапі виникає значна кількість проблем. Найголовнішою є супротив населення до об'єднання в спроможні територіальні громади. Це пов'язано в першу чергу, з низькою обізнаністю населення та і самих посадових осіб місцевого самоврядування стосовно особливостей проведення реформ та їх позитивних і негативних наслідків. Другий етап впровадження мав передбачати зміни до адміністративно-територіального устрою та введення посади префекта. Проте, якщо в теоретично другий етап планувалося розпочати з 2018 року, то практично це здійснити ще не вдалося. Третій етап передбачав створення відповідно нормативно-правової бази із внесенням змін до Конституції України щодо особливостей здійснення місцевого самоврядування, але і на цьому етапі виникають неузгодженості. Законотворчий процес набуває все більшого політичного характеру, що супроводжується спекуляцією гострими для українського суспільства темами. Як результат, довго тривалість процесу децентралізації може призвести до несприйняття населенням реформи взагалі. Для її прискорення необхідне вирішення зазначених вище проблем шляхом політичного діалогу.

Ключові слова: *децентралізація, місцеве самоврядування, територіальна громада, об'єднані територіальні громади (ОТГ), спроможна територіальна громада, "розумне зростання територіальних громад"*

Section 3.
LOCAL SELF-GOVERNMENT – REGIONAL LEVEL

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VOIVODSHIP-LEVEL OF SELF-GOVERNMENT AS A PART OF THE REGIONAL POLICY IMPLEMENTATION SYSTEM

Summary

One of the biggest accomplishments of the socio-political transformation in Poland is the broad decentralization of public governance sector. The currently law on municipal-level self-governments in effect led to the restitution of the phenomena of local authority in Poland, and at the same time constituted the first step towards further local self-government reforms, that resulted in the creation of voivodship and county level self-governments. On 1 January 1999, a fundamental three-tiered division of the country was introduced with municipalities, counties, and voivodships (of particular interest to this study) as its units. Local self-government reform created an important qualitative change because voivodships obtained legal personhood, which put them on a partnership level with central authorities. Twenty years of functioning local self-governments in Poland prompts reflection on the effectiveness of past solutions and directions of further voivodship-level self-government development. Such reflection is crucial because, in a democratic, decentralized state, local self-government plays an increasingly important role in promoting, stimulating, and financing initiatives aimed at socio-economic development. Future functioning of voivodships and whether there will be sufficient funding to implement regional development programs depend on efficiently implementing these initiatives, as well as changing local government budgetary policy.

Keywords: *regional policy, decentralization of public governance sector, voivodship-level local self-government*

1. Opening remarks

One of the biggest accomplishments of the process of socio-political transformation in Poland is a broad decentralization of the public governance sector. From the perspective of administrative law, decentralization is a process that includes many independent institutions fulfilling public-law competences, with one central institution to govern them. De-centralization is, therefore, a procedure of delegating certain public functions, that have previously fallen within the competences of the central government, to groups of corporatively

organized citizens. In a modern democratic state, aside from the administrative government bodies which are directly subject to the central authorities and remain a part of the hierarchical system, there are self-governing bodies that are granted relative independence when carrying out matters of public administration. These are the local self-government bodies which are a part of the public administration system. Therefore, local self-governments, when performing their legally mandated obligations, serve the same function as the national government. In other words, both local self-government and the national government belong to the category of state administration. Local self-government administration, realistically, conducts the same tasks as the national government. The difference, however, is formal in nature and stems from different rules of organization, such as hierarchical independence and fundamental autonomy in relation to central government institutions and other local self-government institutions.

Local self-government, while an example of de-centralization, is not, however, only tasked with regional and local affairs. An important role is played by the local self-government at the voivodship level, especially in the context of the implementation of European Union (EU) regional development policy. The creation of voivodship-level government was an important element of the decentralization process launched at the beginning of the systemic transformation in Poland. On 8 March 1990 there was a bill passed regarding local self-government (currently at the municipal level), which led to the revival of local authority in Poland. This was the first step towards further local self-government reforms, which resulted in the establishment of local self-government at the county and voivodship levels. On 1 January 1999, a fundamental, three-level territorial division was established, which included municipalities (gmina), counties (powiat), and voivodships (województwo). Such substantial de-centralization created local authorities across all levels of government. The local self-government reform caused an important qualitative change, as voivodship – regions gained legaly personhood in the capacity to interact collaboratively with the central government. This should be perceived as a strengthening of the State's inner structure, where the citizens play a significant role.

2. Voivodship-Level Self-Government Tradition in Poland

The creation of voivodships as self-governed regions was a serious challenge for the administrative reformers because, up until that point, Poland's past experiences in that capacity were unsuccessful. In the Second Polish Republic era, the State didn't arrive at a solution for how to implement a nation-wide system of local self-governments, despite the fact it was included in the March 17th, 1921 Constitution. In fact, it was mentioned in as many as five

separate articles. The Constitution stated that the Republic's political system shall be based upon a principle of broadly implemented local self-governments. In addition, the system was supposed to grant local self-governments certain legislative powers, thus some level of autonomy, especially in the fields of administration, culture, and economy (art. 3). The Constitution also mentioned that local governance was supposed to be implemented in voivodships, counties, and municipalities (Izdebski, 1991, p. 38).

Despite all the declarations, a nation-wide voivodship system was not established. Between 1919 and 1939, the system was limited to the Poznan and Pomeranian voivodships. The legal basis of their functioning was modeled on Prussian regulations regarding provincial governing, but the standards were different for both voivodships.

In the rest of the country, there were no voivodship governments. Only the organic statute of the Śląsk voivodship referenced its autonomy, and the Silesian Parliament was supposed to pass a bill regarding the establishment of an internal governing system for the region (broader on the subject: Kumaniecki, Wasiutyński, Panejko, 1929, p. 1075 and following).

An attempt to bring about a unified, nation-wide voivodship-level governing system was made on September 26th, 1922. The parliament passed a bill of principles for the common voivodship governing system that mentioned Lwowskie, Tarnopolskie, and Stanisławowskie in particular (Dz.U. [Polish Journal of Laws] RP No. 90, pos. 829). The "export" bill, as it may be referred to, which was addressed to the Entente Superpowers, (however fully constitutional), provided somewhat of a framework but needed further legal specifications. After Poland's claims to Eastern Galicia were granted, the bill lost its fundamental raison d'etre, and in this uncertain international environment, it could not come to fruition (Izdebski, 1991, p. 39). The obvious conclusion is that the national identity issues Poland experienced, affected the central government's attitude towards the question of local self-government, which was undoubtedly linked to the problem of extending similar powers to the Ukrainian population in the South-Eastern Polish territories.

Such dilemmas did not occur in the Wielkopolska region. In this region, Prussian law, de facto, was still enforced because the Polish regulations of 1928 and 1935 did not create any significant changes regarding the local self-government's organization. The voivodship-level local self-government was named Poznański Wojewódzki Związek Komunalny (PWZK). The legislative and controlling functions were performed by the Regional Parliament, and the governing and executive body was the Voivodship Department, which was comprised of roughly a dozen members. The local Starost was still in office

and he, and the Starostwo Krajowe, made up the executive body. The Starost was elected by the Regional Parliament and confirmed by the Minister of the Interior, who was also entitled to secondary supervision (primary supervision was within the competence of the head of voivodship). Within the voivodship governments' competences were tasks such as the construction and maintenance of local roads, development of agriculture, medical and social care (treatment and care institutions), education, distribution of academic scholarships, subsidizing scientific institutes and associations, and managing the National Museum in Poznan. At the Starostwo Krajowe, there was the Voivodship's Fund for Widows and Orphans of Municipal Clerks, as well as the Voivodship's Loans Bank. In 1934 the internal structure of the Starostwo Krajowe was regulated in official by-laws (Nawrocki, 1990, pp. 28-29. Broader about the Poznań voivodship local self-government: Radtke, 1990).

In the past, the voivodship self-government united urban and rural counties, which were obliged to pay the voivodship tax. In turn, said counties were authorized by representatives to perform the administrative duties of The Voivodship Municipal Association and were permitted to utilize all of its devices (Pacanowska, 2007, p. 71).

In the remaining parts of Poland there was no *sensu stricto* voivodship-level self-government. In those regions, Voivodship Councils and Voivodship Departments were the only bodies acting alongside the heads of voivodships. A Voivodship Council, while comprised of members appointed by County Councils and the City Councils of independent cities, was merely an advisory body that functioned under the authority of the head of voivodship. Legally, the head of voivodship was obligated to present the Voivodship Council with a report concerning the voivodship's general condition, the functions of national administration within the voivodship, and some of the most important objectives for the future, as well as to consider the Council's opinion in the matter of the voivodship's general needs. The Voivodship Department, led by the head of voivodship or the Deputy, was comprised by both state-appointed civil servants as well as elected members. The Voivodship Deparment played an advisory role, but also supervisory, in regard to local self-government matters. Literature has determined these bodies to be the starting point of real local self-government (Leoński, 1991, p. 42).

Directly after the ending of World War II, local self-government was reactivated by the 23 November 1944, Decree on the Organization and Range of Activities of Local Self-Government (Dz. U. [Polish Journal of Laws] No. 14, pos. 74). The Decree formally referenced the dualistic model of territorial administration that functioned in the Second Polish Republic. This decision, it

seems, was mostly determined for tactical reasons. It was easier to re-organize the system by re-introducing familiar solutions than to implement radical changes that most citizens at the time would consider "Sovietization." On the other hand, new authorities were referencing the articles from the March Constitution of 1921, which mentioned the dualism of territorial administration with a broad and complex local self-government system.

When it comes to the changes that were made in relation to the interwar period, Z. Leoński emphasizes that the new regulations, from a formal and legal point of view, introduced many positive solutions, despite some of their drawbacks. These regulations include the inception of local self-governments, as announced by the Constitution of March, at all levels of territorial division and the adoption of a general clause that defined "local public matters as belonging to the scope of activity of the local self-government, unless they are clearly reserved as national competences." However, Article 33 did not clearly specify the range of responsibilities of the local self-government bodies on higher levels. According to the legislative technique of the time, the individual regulations of the "substantive" administrative law, published up until 1950, determined whether specific tasks lied within the competence of the local self-government or the state administration (Leoński, 1991, p. 44).

On 11 September, 1944, the Law on the Organization and Competences of the National Councils, which recognized National Councils as legislative bodies of the local self-governments, was passed. It was closely connected to the decree on local self- government (Dz. U. [Polish Journal of Laws] No. 5, pos. 22).

The competences of the State Councils included the planning of public services and exercising control over executive bodies of, not only the local self-government, but the national bodies as well, which meant civil contribution to the supervision national authorities. Although the local self-government decree stipulated that local self-government must be represented by an appropriate National Council, and "constitute public law corporation, and possess legal personality," the range of responsibilities of the National Councils as legislative bodies extended beyond the traditional understanding of the local self-government's competences (Leoński, 1974, pp. 33-34).

Compared to the interwar period, the means of appointing legislative bodies to the local self-governments – National Councils, has changed. The Act on National Councils of 1944 did not mention elections, but a system of delegation, performed by specific organizations based on the Constitution of March 17, 1921. County-level Councils, on the other hand, were comprised of representatives delegated from the Presidium of the Municipal and Rural Council; similarly

Voivodship Councils were created. Disregarding elections largely undermined the democratic and self-governing nature of those institutions.

The Voivodship Department, supervised, ex officio, by the head of voivodship or his Deputy, was the executive body of the Voivodship National Council. The administrative tasks of the Voivodship Departments were handled by their respective Voivodship Office. As a result, a complex system of connections between the national and local self-governments was established, based largely upon pre-war regulations (Lemańska, 2006, p. 84).

Local self-government in Poland was formally abolished in a bill on March 20th, 1950 on local bodies of uniform national authority (Dz. U. [Polish Journal of Laws] No. 14, pos. 138). The post-1950s era, according to the Soviet doctrine, was marked by a rejection of the concept of local and supra-local representative bodies that are characteristic of democratic societies. It was not until the implementation of socio-political changes in the 80's/90's that the ideas of municipal and supra-municipal, county (powiat), and regional (viovodships, województwa) government returned. From the point of view of cohesive policy, the establishment of voivodship-level self-governments was particularly important and became a crucial element of the system striving for local and regional growth.

3. The Relationship Between Regional Policy and Self-Governing Voivodships in Poland

Taking into consideration the experiences of the European Union (EU), regional policy is a conscious and intentional process undertaken by bodies of public authority with regional development goals (in terms of both individual States and the wider community), such as the optimal use of regional resources for sustained economic growth and increased competitiveness. In literature, two sub-categories of regional policy stand out: inter-regional policy, which is conducted by the central government's bodies and most often oriented towards balancing out the proportion of growth between regions; and intra-regional policy, conducted by the local self-governments, aiming at achieving their own region-specific goals, and utilizing their own resources under their own responsibility.

The term "regional policy" is often used interchangeably with terms "cohesion policy" or "structural policy." Regardless of the definitions, the policies peruse the same goal: the equalization of economic and social differences between regions on the European Union.

As T. G. Grosse emphasizes, regional policy aims to achieve cohesion between different regions of the Union in terms of socio-economic development,

hence the name, cohesion policy. The task of regional policy is to introduce structural changes in the economies of problematic regions, so it can also be called structural policy. In the case of the latter, a differentiating feature is the fact that it is horizontal in nature, which means it is implemented nation-wide. Its purpose is to create an environment for changes to the economic structure which allow for maintaining or obtaining the capability to compete in the global economy (Grosse, 2004, p. 14).

It is a challenge to determine which one of the above terms is the most appropriate, when considering point of view of the EU, and national regional development activity. The term “regional policy” seems to be the most accurate because the name refers to the subjects of coordinated structural actions, however, directed territorially, which significantly limits the area of socio-economic impact. In this context, the term “cohesion policy” is the broadest and includes many additional categories (e.g. agricultural support), which are not included in the scope of the terms “regional policy” or “structural policy” (compare Tkaczyński, Willa, Świstak, 2008, p. 69).

The term “regional policy,” however, is subject to modification due to globalization processes and the need for greater competitiveness of the European economy. An example of a new perspective on the discussed issue is the position of the Organization for Economic Co-operation and Development (OECD), which emphasizes that the policy of regional development is not exclusively considered as a tool to level intra-state regional disparities, but as an active strategy to support regional innovation, to utilize local potential as the driving force of economic growth on a national scale (Zientara, 2007, p. 16).

In Poland, the first institutional actions purported to coordinate regional policy were instituted in the second half or the 1990’s. Adapting the country’s territorial organization and the local self-government structures to meet the standards of the European Union was a necessary condition of their success. Reformers, justifying the need for such policy implementation, emphasized that the Polish administration is grounded in the dominating role of ministerial departments, and is, sectorial, presiding over territorial units. They also highlighted the overly centralized structure of power, the concentration of administrative competences at the central level, and a situation in which citizens have little influence on the policies conducted by the authorities. Therefore, a decision was made to introduce decentralization reform, which enabled the creation of self-governed counties and voivodships.

A pivotal step towards the decentralization of competences which would be adopted at the regional level was the ratification of the Voivodship Self-Government Act, enacted on 5 June 1998 (Dz. U. [Polish Journal of Laws]

No. 91, pos. 576 incl. later changes). According to the bill, the voivodships' denizens legally constitute a regional self-governed community. As a result, the self-governing voivodship became a separate category of local self-government, focused on entitlements exceeding local activities. The voivodship had been established as a regional self-governing unit, as well as the largest unit of territorial division capable of performing public administration.An important competence of the voivodship government is determining the strategy for the voivodship's development, which includes goals like:

- fostering the Polish identity, and developing national, civic, and cultural awareness,
- stimulating economic activity,
- raising the voivodship's economic competitiveness and innovation level,
- preserving cultural values and regard for the natural environment, taking the needs of future generations into account,
- structuring and maintaining public space.

The strategy of voivodship development is implemented through regional operational programs. When formulating the strategy of regional development and executing its elements, the voivodship government cooperates primarily with units of local self-government, with economic and professional associations, as well as central administration, especially with the head of voivodship.

The tasks of the self-governed voivodship are regional in nature, which means they concern the creation of conditions for the region's development and public service provision. They should create regional policy, in cooperation with the central administration, utilizing EU structural funds.

A relatively broad scope of competences does not, however, change the fact that a regional self-governing community does not legally constitute an autonomous voivodship, which allows the state to remain unitary. All voivodships (regions) have an identical legal status and their area is considered a territorial entity. The government, represented by the Head of the Voivodship with his office, also executes the state administration in a voivodship. The Prime Minister appoints and dismisses Heads of the Voivodships at the request of a competent minister for public administration. Therefore, in Poland, at the voivodship level, there is a dualistic system of administration, which makes the administrative organization similar to the French model. It should be noted that in the French administrative tradition, the Prefects constitute a professional civil servant body which serves any government, regardless of political affiliations, whose fundamental task is to represent the central government on the ground.

As noted by J. Regulski, Poland adopted a different solution based on the assumption that the implementation of the national policies requires that the Head of Voivodship be affiliated with a political party. Thus, the public function of the Head of Voivodship was considered to be political rather than administrative. Consequently, politicizing the position makes it impossible to create a proficient team of high ranking administrative officials and makes it so that after every government change at the central level, the vacant administrative positions are being filled by people are not adequately prepared (Regulski, 2005, pp. 180-181).

The voivodship self-governing bodies are the Voivodship Assembly (Voivodship Sejmik) and the Voivodship Executive Board. The Voivodship Assembly is a legislative and control body, while the Voivodship Executive Board is the executive. The Board includes the Voivodship Marshall as its chairman, a Vice-Chairman, and an additional three members. The Board carries out the voivodship's agenda assisted by the Marshall's Office. The head of the Office, the supervisor of its staff, and head of the voivodship-level organizational unit is the Voivodship Marshall, who gradually becomes a central figure in regional administration. This thesis, despite the dualistic system of voivodship public governance, seems justified, when considering the steadily increasing role of local self-government in the process of implementation of regional policy, the foundations of which have been developed by the European Union.

The acceleration of activities aimed at organizing a modern regional policy system could be observed after the adoption of the Act on the Principles of Supporting Regional Development on 12 March 2000 (Dz. U. [Polish Journal of Laws] No. 48, pos. 550). It specified the rules of regional development cooperation between the Council of Ministers, the government administrative bodies, and local self-governments, particularly a mode of action that includes regional development, as well as principles of concluding and executing the voivodship contract, which is the basis for which regional self-government receives resources from the central government, support investments for voivodship development programs.

Poland's accession into the European Union, and the increased opportunity to use European funds for strengthening socio-economic cohesion, forced the country to draft legal regulations that were to ensure a more effective absorption of funds into the budget. Passing the National Development Plan (Dz. U. [Polish Journal of Laws] No. 116, pos. 1206 incl. later changes) was also dictated by a necessity to adapt the interior programming procedures and the implementation of programs co-funded by the EU budget to abide by the EU regulations.

As noted by K. Kokocińska, this required, among other things, the creation of a homogenous system for the functioning and financing of the country's

structural development, including regional development. The bill specified, in detail, the scope, internal structure, and preparation process of the National Development Plan (NDP) and operational programs, as well as the Cohesion Fund Implementation Strategy (Kokocińska, 2009, p. 77).

The National Development Plan integrated sector-specific policies and included solutions for meeting the developmental needs of specific regions mentioned in the "planning programs" which form the basis for government-conducted policy. Its objectives included:

- supporting the achievement and long-term maintenance of a high GDP index,
- increasing employment and education levels,
- integrating Poland into the European transportation and information infrastructure network,
- identifying the processes that would allow high-value added sectors to constitute bigger parts of the economic structure, development of information society technologies,
- supporting all regional and social groups across Poland to take part in developmental and modernizing processes.

The NDP was associated with operational programs – the most important documents that enabled the implementation of the Community Support Framework.

In other words, the Community Support Framework defined the direction and scope of EU support for the implementation of operational programs. Therefore, these programs consisted of priorities and activities for the implementation of which structural funds were devoted. The operational programs were categorized sector-specifically, and the Integrated Operational Regional Development Program (IORDP) is of particular interest.

According to the IORDP framework, the support was mainly received by local self-governments at the voivodship, county, and municipal levels, as well as municipal and county associations, scientific institutions, labor market institutions, regional development agencies, and institutions for supporting entrepreneurship (thus, indirectly, businesses, especially small and medium-sized ones).

An important role in the implementation of IORDP was played by the voivodship-level self-governments, which were involved in the application procedures for EU aid and cost reimbursement. The Marshall's Office was responsible for disseminating information regarding the availability of funds connected to the activities of the IOPRD and application opportunities. This does not change the fact that in the context of the process of financing regional

projects, the range of competences of the voivodship-level self-governments was limited in favor of the central administration, as the application was co-signed by both the beneficiaries and the head of voivodship. The IORDP is managed by the Ministry of Regional Development whereas the Marshall's Office only maintains the status of an intermediary institution.

The projects implemented within the IOPRD were predominantly financed by the European Fund for Regional Development (2.53 billion EUR) and the European Social Fund (438 million EURO). In accordance with the principle of complementarity, the state budget had to designate 346 million EUR for the adopted measures, local self-government units 769 million EUR, while private investors' funds should constitute no more than 146 million EUR.

From 2004 to 2006, the Integrated Operational Regional Development Program included four priorities:

Priority I. The development and modernization of infrastructure to strengthen regions' competitiveness – 59.4% of total funds.

Priority II. Strengthen the human capital in regions – 14.7% of total funds.

Priority III. Local development – 24.5% of total funds.

Priority IV. Technical support – 1.3% of total funds.

Both the administration (including local administrations) and the beneficiaries were satisfactorily prepared for the utilization of EU funds as a part of National Development Plan in 2004-2006. On 31 December 2009, the application period for all programs to be implemented with the structural funds within the financial framework ended. According to the governing institutions' data, the beneficiaries received 35 billion PLN, an equivalent of 107% of total EU allocation. This funding level was the result of over-contracting and the fluctuations of the exchange rate throughout the period of the program. Within the framework of the Integrated Operational Regional Development Program, about 14 thousand projects were completed, co-financed by the European Union in the amount of 12.3 billion PLN, 108.4% of the total allocation of funds (Wykorzystanie środków z funduszy..., 2010, pp. 2-3, comp. Narodowy Plan..., 2009, pp. 21-23).

The introduction of new regulations by the EU authorities, that specified the use of cohesion policy instruments, necessitated the modification of Polish legislation defining the mechanisms of structural development. The Principles of Development Policy Act of 6 December 2006 played a key role in the modification of structural development legislation (Dz. U. [Polish Journal of Laws] No. 227, pos. 1658 incl. later changes). Its fundamental goal was the creation of a legal framework that would systemize the management of socio-economic development policy.

Formally, and legally, the Principles of Development Policy Act is, next to the EU regulations, a key legal act that determines the rights and obligations of government institutions, local self-government institutions, and individual project providers. It also provides the grounds for the construction of a national implementation system of structural funds and Cohesion Fund (Tkaczyński, Willa, Świstak, 2008, p. 448).

Development policy is understood as a network of interrelated activities that are undertaken to ensure the sustained and balanced development of a country, socio-economic, regional and structural cohesion, and to raise the competitiveness of the economy and create more jobs on a national, regional and local scale. The entities involved in the implementation of said tasks are: The Council of Ministers, metropolitan unions, voivodship and municipal self-governments (Ustawa z dnia 6 grudnia 2006 o zasadach prowadzenia polityki rozwoju).

The development policy is conducted based on development strategy, which include: long-term national development strategy, mid-term national development strategy, and other development strategies. Within their framework, there is national development strategy, supra-regional development strategy, and voivodship development strategies. In order to achieve the objectives of these strategies, national and regional operational programs were established.

To ensure rational spending of the structural funds and Cohesion Fund, the EU drafted the Community Strategic Guidelines which supports economic growth and employment, referencing the Council's regulation (EC) of 11 July 2006, that established general legal provisions with regards to structural funds and the Cohesion Fund.

Based on the Community Strategic Guidelines, Poland drafted the National Strategic Reference Framework (NSRF), which determines development activities undertaken by state authorities. This document, which played a crucial role in the development of the Polish cohesion policy, was accepted by the European Commission on 7 May 2007.

A strategic objective of NSRF is to create conditions, based on knowledge and entrepreneurship, that increase the competitiveness of the Polish economy, and ensure employment, socio-economic, and structural and cohesion growth.

This strategic objective will be achieved through implementing specific horizontal objectives such as:

- improving the quality of the functions of public institutions and the mechanisms of partnership development,
- improving the quality of human capital and increasing social cohesion,

- constructing and modernizing technical and social infrastructure, which is fundamental for increasing Poland's competitiveness,
- increasing the competitiveness and innovativeness of companies, particularly in the manufacturing sector and sectors of high added value, and developing the service sector,
- increasing the competitiveness of Polish regions and preventing their social, economic and structural marginalization,
- reducing inequalities in terms of access to development opportunities, as well as supporting structural changes in rural areas.

The sum total of financial resources invested through the implementation of the NSRF between 2007-2013 amounted to 85.56 billion EUR. This amount includes 67.3 billion EUR of Community funds and a total of 18.3 billion EUR from both public and private investors (Sługocki, 2010, p. 145). 67% of this comes from resources for structural funds, while the remaining 33% from the Cohesion Fund. The level of national co-funding of such projects is 15 %.

The above-mentioned financial resources are distributed throughout the following operational programs:

Infrastructure and Environment – 41.3 % (27.8 billion EUR)
16 Regional Operational Programs – 23.8 % (17.3 billion EUR)
Human Capital – 14.4 % (9.7 billion EUR)
Innovative Economy – 12.3 % (8.3 billion EUR)
Development of Eastern Poland – 3.4 % (2,3 billion EUR)
Technical Support – 0.8% (0.5 billion EUR)
European Territorial Cooperation – (0.7 billion EUR).

Governing institutions are responsible for the proper implementation of operational programs. In the case of national operational programs, the governing institution is the Minister of Regional Development, while regarding regional operational programs, it is within the competences of the pertaining Voivodships Executive Board, therefore local self-governments.

The regional operational plan is drafted by the Voivodship Executive Board in cooperation with the Minister of Regional Development. The Voivodship Executive Board accepts, by a resolution, the regional operational program that has been approved by the European Commission. The investments included in the program are financed from either the national budget or foreign funds. The Minister of Regional Development signs an agreement with the Voivodship Executive Board regarding the co-financing of the regional operational program, called "the Voivodship Contract," within the scope and conditions determined by the Council of Ministers. Under the NSF 2007-2013, the growing role of voivodship government as an entity of

the cohesion policy can be seen, which is confirmed by the transference of the competence of the management the regional operational program to the Voivodship Executive Board.

The voivodship-level self-governments will also be involved in the implementation of cohesion policy from 2014-2020. During this period, Poland will receive 82.5 billion EUR from the EU budget. These funds will have the potential to be utilized for investment in scientific research and its commercialization, key road infrastructure (highways, express roads), developing entrepreneurship and providing funds for sustainable transportation, digitization of the country (broadband access to the Internet, e-government services), or social inclusion and workforce development. According to the provisions of the Partnership Agreement draft, the implementation of regional operational programs will use about 40 % of all the structural funds.

The objective of the regional operational programs is, based on the voivodship development strategies, to increase the competitiveness of regions, to improve the quality of life for their residents by using the region's potentials, and to concentrate efforts on the elimination of development barriers. At a regional level, the emphasis will primarily be on supporting entrepreneurial pursuits which stem from regional specializations. The majority of interventions in education, employment, and social inclusion will be conducted on regional levels. In designated areas on a national level, only systematic solutions and projects with a national scope will be implemented. In terms of the dissemination of technologies, environmental protection, energy, and transport infrastructure, the actions undertaken in the regions will complement initiatives applied at the national level. Because of the high engagement of local self-governments in the implementation of the cohesion policy, approximately 75% of the resources of the European Social Fund and about 55% of the resources of the European Regional Development Fund will be allocated to the regional level (Programowanie perspektywy finansowej 2014-2020..., p. 19).

Regional operational programs will be implemented in 15 voivodships (which are included in the category of less-developed regions) as well as in the Mazowieckie voivodship (which belongs in the better-developed category). Like the financial perspective of 2007-2013, the governing institutions of the regional programs will be the Voivodship Executive Boards (Programowanie perspektywy finansowej 2014-2020..., p. 21).

From the moment of Poland's accession into the European Union, there has been greater engagement from the voivodship-level self-governments in the implementation of the EU policy for regional development, which has benefitted

Poland greatly. At this point, however, the question arises as to the voivodships' status if the European structural funds are significantly reduced.

4. The Future of Voivodship Self-Governments in the Context of Implementing Regional Development Policy

There are plenty of legitimate reasons to discuss the future of voivodship-level self-governments in Poland. As previously emphasized, they are currently becoming more and more important due to their engagement in the process of implementing the EU cohesion policy. Undoubtedly, after the settlement of funds covered by the financial perspective of 2014-2020, Poland will no longer be the biggest beneficiary of European structural funds. This will create a shift in regional priorities and instruments of development policy. Considering extant legal conditions, focus should be on the modification of the systems of financing voivodship governments and on strengthening their positions in relation to the Heads of Voivodships, especially regarding the implementation of regional social and economic development policy. Critical remarks regarding the financing of local self-government units have a more general character. One of the most frequently expressed reservations is an over-dispersion of legislation that regulates local self-government financing. Although it may be difficult to explain the desirability of dispersing budget policy, its implementation, and the competence of financial management in general, it can be justified when considering the diverse sources of income. The system of shaping voivodships' income is also far from perfect. Their fundamental sources of funding insufficient donations and subsidies rather than self-generated income, which in principle would be a guarantee of greater organizational independence and conduction of efficient financial policy.

The problem remains of the consequences of a dualistic administrative system within voivodships. As previously mentioned, the local self-government reform of 1998 introduced two regional administrations: the central led by the Head of Voivodship (wojewoda), responsible for completing tasks of national importance, and the self-governmental, focused on acting in regional interest. The division of competences can be considered rational; however, it is not always in practice. Since the decentralization reforms, it has been apparent that politicians of various affiliations in Poland tend to try to preserve their party's influences in the regions. The strengthening of voivodship self-governments, which has been discussed for years, remains a postulate of the program. Consequently, the scope of the central administration's interference in matters legally classified as local self-government authorities' competences has been steadily increasing.

The important competences of voivodship-level self-governments in the implementation of intra-regional policy correspond with the implementations

of central-governmental administration by the Head of the Voivodship. This not only demonstrates the duality of the voivodship governance but also the relative concentration of the national administrative authority for the entire voivodship. Such concentration also affects the implementation of tasks in terms of regional development (comp. Wlaźlak, 2010, pp. 218-219).

The Head of the Voivodship's activities must be equitable to the activities of the voivodship-level self-government. As noted by K. Wlaźlak, the regional development policy implemented by the local self-government, as well as by the Head of the Voivodship should be characterized by independence, equality, and non-competitiveness. Both these entities act independently of each other and have their own legally specified competences. Only in the absence of competition between these institutions is it possible to effectively solve the problems connected to the dualism of governance, characteristic of the self-and-centrally governed voivodship model. Currently, the Head of the Voivodship's legal standing favors the re-emergence of conflicts between different bodies. The dualism of public administration in the voivodships requires the division of competences between the central administration and the local self-government in such a manner that their competencies are complimentary. Undoubtedly the co-existence of the systems, both centralized and de-centralized, encompasses an inherent need to ensure their coherent functioning (comp. Wlaźlak, 2010, p. 219).

Broadly defined cooperation is also necessary when formulating and implementing new directions in regional development. The integrated approach to regional development, that includes all subjects operating in a given area, is becoming increasingly popular. It can also be said that the new paradigm of regional development is sustainable development, which harmoniously encompasses ecological, economic, social, and structural order. By promoting integrated regional development, much significance is given to local and regional authorities and professional administrators since they are responsible for creating competitive conditions, not only for resident constituents but also for potential investors. In this context, the question of innovations arises. In the modern understanding of regional development, only innovative environments have a chance of being competitive. An innovative environment, which through the system of research and development, cooperation between scientific institutions and companies, and partnerships between the public and private sectors, generates new products and knowledge, cannot exist without synergy between local partners (Sakowicz, 2007, pp. 82-84).

In the case of voivodships, the implementation of development programs requires that regional administrations, along with the private sector and non-

profit organizations, collaborate to establish appropriate groups and strategic alliances whose missions of regional economic growth. The developmental steps are supposed to create a "regional partnership for economic development." (Piasecki, Kubiak, 2009, p. 11). It is crucial to strive to create of a new governance model in the public sphere which takes into consideration the opinions of NGOs, as well as local self-government structures which represent, for example, economic environments.

A professional self-government, appointed based on different criteria, plays an important role in the system of representing the interest of specific groups of citizens. Within this professional self-government sector, economic unions with the objective of advocating for the interests of the economic environment can be distinguished. Local self-government should be viewed not only from the perspective of groups of citizens organized geographically, but also of the social environment of entrepreneurs, and therefore, in terms of governance.

In literature, the term *governance* is very broadly defined, multi-dimensional, and the complexities continue to evolve. The term *governance* can be understood as: *corporate governance*, *new public management*, *good governance,* or as coordination within networks created between economic entities (*inter-firm governance*) (Sroka, 2009, pp. 45-46; comp. Gawłowski, 2010, p. 138). It is particularly important to refer to the notion of *governance* in the context of local self-government functionality. Such an assumption approximates the analyzed proposals to the concept of *new regionalism*, which is based on cooperation between public administrations, community members, and non-government organizations.

Governance is, therefore, a function of managing complex communities by coordinating the activities of entities of various sectors. The role of public authorities is less about the creation of policy, and much more about moderating public policies. Administration, in terms of *governance*, including the important element of local self-governance, is a part of social mechanisms that participate in solving collective problems with interest groups and citizens, and their representatives (Izdebski, 2009, p. 33).

Governance should be seen as the subjugation of supra-national, national, regional and local administration to the pluralistic society. Consequently, it can be seen as an element of "participatory democracy," "partner democracy," "interactive democracy" or "deliberative democracy" – as part of what is referred to as "*multi-level governance.*" Such democracy is inextricably linked to social consensus and dialogue Izdebski, 2009, p. 34). The foundation for such processes should be social capital, therefore programs should be implemented that increase social trust. Trust is one of the basic elements of economic success, which can be

achieved by creating partnerships between local self-governments and business owners.

Therefore, the modified role of local self-government, and its cooperation with the economic environment, within the framework of the multi-level governance system may be of key importance for local and regional economic development.

The most serious problem in relations between local self-governments and business owners' environent is poor communication resulting from asymmetrical institutional and legal relations. There is no formal platform for local self-government and business cooperation. Despite the fact that local and regional self-governing authorities complain about the limited possibilities of establishing dialogue with business owners, the private sector is often treated instrumentally. This threatens the implementation of multi-level governance, which emphasizes an increasingly complex network of functional connections between institutions of different levels and sectors. It, therefore, seems necessary to appoint a consistent organization of business owners that would be able to offer advice and expertise to the local self-governments.

An optimal solution is to create a self-governing business association, which would be a representative institution of the private sector. However, expanding the membership base while maintaining the currently applied methods will not be successful. An alternative is the statutory creation of a self-governing business association, modeled on decentralization laws applied to local self-governments. A self-governing business association, then, would be a partner to the administrative authorities, including regional self-government structures, and would be an element of Poland's public authorities sector.

Let us hope that the aforementioned problems, regarding the desired direction of voivodship governments' development, will be responded to in the legislative process and in the form of organized, citizen-based initiatives. To conclude, it must once again be underlined that in a democratic, decentralized state, the local self-government plays an important role in promoting, stimulating, and financing initiatives for socio-economic development. The efficient functioning of voivodships depends largely on changes in the legal framework of local self-governments that permits the generation of budgetary revenue, and whether they will have sufficient funds for the implementation of regional development programs. Only then will local self-governments assume a position of significance in the national administrative structure and become a meaningful partner for well-organized, prosperous regions of the European Union.

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Streszczenie

Jednym z największych osiągnięć procesu transformacji społeczno-politycznej w Polsce jest szeroka decentralizacja sfery władztwa publicznego. Obowiązująca obecnie ustawa o samorządzie gminnym doprowadziła do restytucji zjawiska władzy lokalnej w Polsce, a zarazem stanowiła pierwszy krok do dalszych reform samorządowych zwieńczonych ustanowieniem samorządu powiatowego i wojewódzkiego. Z dniem 1 stycznia 1999 r. wprowadzono zasadniczy trójstopniowy podział terytorialny państwa, którego jednostkami stały się gminy, powiaty i szczególnie nas interesujące województwa. Reforma samorządowa obejmując swoim zasięgiem województwa spowodowała, że nastąpiła istotna zmiana jakościowa, bowiem województwa - regiony uzyskały

podmiotowość co usytuowało je na płaszczyźnie partnerskich relacji w stosunku do władz centralnych. Dwadzieścia lat funkcjonowania samorządu regionalnego w Polsce skłania do refleksji dotyczącej efektywności podjętych wówczas działań i kierunków dalszego rozwoju samorządu na poziomie województwa. Jest to niezwykle istotne, bowiem w demokratycznym, zdecentralizowanym państwie to właśnie samorządowy region odgrywa coraz większą rolę w promowaniu, stymulowaniu i finansowaniu ze środków publicznych inicjatyw służących rozwojowi społeczno-gospodarczemu. Od sprawnej realizacji tych zadań, a także zmiany zasad generowania przychodów budżetowych samorządu, zależy w głównej mierze przyszłe funkcjonowanie województw i to czy będą one mieć wystarczające środki na realizację programów rozwoju regionalnego.

Słowa kluczowe: *polityka regionalna, decentralizacja sektora zarządzania publicznego, szczebel wojewódzki samorządu terytorialnego.*

Резюме

Одним из самых больших достижений социально-политических преобразований в Польше является широкая децентрализация государственного управления. Действующий в настоящее время закон о самоуправлении муниципального уровня фактически привел к реституции местной власти в Польше и в то же время стал первым шагом на пути к дальнейшим реформам местного самоуправления, которые привели к созданию воеводства и самоуправления округа. 1 января 1999 года было введено фундаментальное трехуровневое территориальное деление государства, подразделениями которого стали муниципалитеты, повяты и, в частности, воеводства. Реформа местного самоуправления, охватывающая регионы, создала важные качественные изменения, поскольку воеводства получили субъективность, что поставило их на партнерский уровень с центральными органами власти. Двадцать лет функционирования местного самоуправления в Польше заставляют задуматься об эффективности уже принятых решений и о направлениях дальнейшего развития самоуправления воеводства. Такое отражение имеет решающее значение, поскольку в демократическом, децентрализованном государстве местное самоуправление играет все более важную роль в поощрении, стимулировании и финансировании из государственных фондов инициатив, направленных на социально-экономическое развитие. Будущее функционирование воеводств и наличие у них достаточных средств для реализации региональных программ развития зависит от эффективного выполнения этих задач, а также от изменения принципов формирования бюджетных доходов самоуправлений.

Ключевые слова*: региональная политика, децентрализация сектора государственного управления, местное самоуправление на уровне воеводства.*

Анотація

Одним з найбільших досягнень соціально-політичних перетворень в Польщі є широка децентралізація державного управління. Чинний закон про самоврядування муніципального рівня фактично привів до реституції місцевої влади в Польщі і в той же час став першим кроком на шляху до подальших реформ місцевого самоврядування, які привели до створення воєводства і самоврядування округу. 1 січня 1999 року був введений фундаментальний трирівневий територіальний поділ держави, підрозділами якого стали муніципалітети, повіти і, зокрема, воєводства. Реформа місцевого самоврядування, що охоплює регіони, створила важливі якісні зміни, оскільки воєводства отримали суб›єктивність, що поставило їх на партнерський рівень з центральними органами влади. Двадцять років функціонування місцевого самоврядування в Польщі змушують задуматися про ефективність вже прийнятих рішень і про напрямки подальшого розвитку самоврядування воєводства. Таке відображення має вирішальне значення, оскільки в демократичному, децентралізованому державі місцеве самоврядування відіграє все більш важливу роль у заохоченні, стимулюванні і фінансуванні з державних фондів ініціатив, спрямованих на соціально-економічний розвиток. Майбутнє функціонування воєводств і наявність у них достатніх коштів для реалізації регіональних програм розвитку залежить від ефективного виконання цих завдань, а також від зміни принципів формування бюджетних доходів самоврядувань.

Ключові слова: *регіональна політика, децентралізація сектора державного управління, місцеве самоврядування на рівні воєводства.*

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DIRECTIONS OF MODERNIZATION OF THE STATE REGULATION OF INNOVATION ACTIVITY AT THE REGIONAL LEVEL

Summary

The strategic approach to improving the mechanisms of the state regulation of innovation activity at the regional level has been substantiated. The mentioned approach is aimed at increasing the contribution of scientific and innovation activity to the scientific and technological breakthrough of the country, the development of the region's economy and the improvement of the quality of life of its population. The necessity of stimulating the market integration between the functioning institutions of innovation infrastructure has been justified. A set of proposals for the modernization of the administrative and communicative mechanism of the state regulation of innovation activity at the regional level has been presented. The target and stimulating components of this mechanism are directed at the effective implementation of the innovative technologies in the state management process. It has been proved that it is reasonable to use the methodology of designing the development of innovation activity, which enables to generate the productive components of the organizational and economic support of the state regulation of innovation activity in a resource-constrained environment in the most progressive way. The methodology should be used as the basis of the formation of the administrative and communicative mechanism of the state regulation of innovation activity at the regional level.

Keywords: *state regulation, mechanisms of state regulation, innovation activity, region, regional innovation policy*.

Introduction

The state regulation of innovation activity is fairly considered to be one of the most complex issues in the theory and practice of public administration. This is due to the fact that innovation process, as well as innovation activity as a whole, is characterized by a high level of uncertainty, and, therefore, it is difficult to predict results and risks (Tkachova, 2007, p.102).

The slowdown in the formation of an innovative economy, the goal of which is to create conditions for the dynamic sustainable growth of the entrepreneurial

activity, to ensure an appropriate level of competitiveness of national products and the well-being of the population, has led to the restricted susceptibility to the innovations of all types, such as technological, organizational, and marketing ones by the economic entities.

Results

The dynamics of changes in the conceptual provisions for the development of innovation activity in various sectors of the national economy has made it necessary for the developers to pay more attention to the strategic management sphere. In the modern world, innovation activity is an indispensable element of a business strategy as an opportunity to convert it either directly into money or into a competitive or lobbying advantage. Consequently, the state authorities are faced with the task of not implementing regulatory impacts precisely, but building and deploying integrated strategies for the development of innovation activity.

The strategic approach to improving the mechanisms of the state regulation of innovation activity at the regional level is aimed at increasing the contribution of scientific and innovation activity to the scientific and technological breakthrough of the country, the development of the region's economy and the improvement of the quality of life of its population (Tkachova, 2007, p.124).

Taking into account the existing regional specificity of the problems associated with the development of innovation activity, the limited budget, including the concentration on current expenditures, it can be said that laying the innovation component in the priorities of the regional development is a primary objective, the achievement of which is extremely important for the sustainable economic development. It is necessary to use different target programs as tools for their compliance. Since the main idea of the sustainable development is to achieve the parity of the economic, social and environmental interests of society, it is necessary to ensure that the principles of sustainable development are taken into account in any activity connected with plans and strategies development.

In accordance with the abovementioned provisions, it is advisable to consolidate the quantitative and qualitative characteristics of the main social and economic indicators at the legislative level, including the ones that characterize the parameters of innovation activity, which the state authorities plan to provide as a result of implementing certain measures directed at their achievement.

Specific programs of action for the immediate and long-term perspective will enable local authorities not only to resolve urgent problems (current ones) promptly, but also to coordinate the work of all the bodies and individuals interested in the development of the region, to ensure that it is well-targeted. In our opinion, the primary objective at the regional level should be the preparation of the concept of the development of the region as a system of ideas about

strategic choice, goals and priorities of the development, main provisions in terms of its individual components and means of achieving these goals.

Thus, the Concept for the development of the region, which defines the main priorities and characteristics of the region's activity that reflect its competitiveness is the basis for developing:

- a strategic plan for the development of the region as a means of coordinating efforts and achieving a mutual understanding among all the parties concerned;
- a program which is a forecasting and analytical document that implements the Concept and contains a set of activities that are related by resources, executors and time frames aimed at achieving the goals of the sustainable economic development of the region. Thus, the mechanism of the sustainable economic and innovative development of the region aimed at the innovative breakthrough is a system of measures that ensure a stable development of the economy of systematic, productive, and resource-efficient reproduction.

The main structural components of the model of the formation of an integrated mechanism for the state regulation of the development of innovation activity at the regional level are shown in Fig. 1.

It should be noted that one of the main conditions for the formation of a competitive strategic perspective nowadays is the development of innovative technologies that enhance innovation activity, as they form the strategic behavior on the basis of the innovative approach. Economic entities have the opportunity to win the competitive position in the market, to increase the pace of the development, to reduce the level of costs, to achieve high profit margins, which in general can be characterized as strengthening of innovation activity.

It becomes possible for the state authorities to use various marketing approaches in their strategic management, through which the achievement of strategic guidelines is carried out on the basis of combining such directions of the development as creating favorable conditions for the development of new technologies, releasing new goods and services, accessing new markets, modernizing the available equipment, expanding the range of goods and services.

The effectiveness of taking innovative measures by the state depends on the innovative potential of the region, which is based on the intellectual, material, financial, personnel, infrastructure and other resources.

In order to increase its innovative potential and implement innovations, it is advisable to adhere to the following main areas of development: creating specialized institutions; stimulating market integration between the functioning institutions of innovation infrastructure and directing them to constructive interaction.

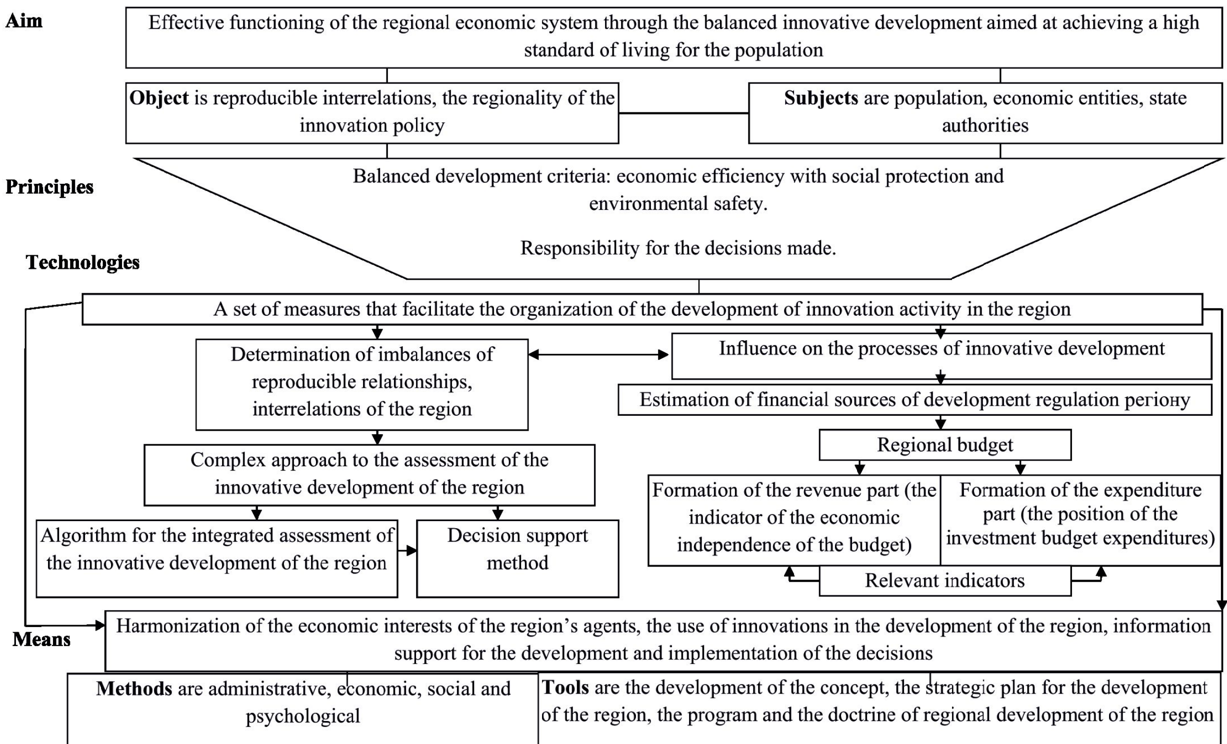

Fig. 1. Model of the Formation of the Mechanism of the State Regulation of the Development of Innovation Activity at the Regional Level

The main purpose of the specialized institutions is to achieve the set strategic development benchmarks by increasing the innovation potential of a certain segment of economic entities; optimizing expenditures; applying an integrated approach to solving existing problems; increasing efficiency; ensuring the work execution within a short time frame; uniting the specialists of different profiles under a single chain of command; optimizing the development and implementation process by reducing production costs.

As for stimulating the market integration between the functioning institutions of innovation infrastructure and directing them to constructive interaction, first of all, it is necessary to determine what integration allows achieving in the innovation sector of the economy. As a universal approach, integration makes it possible to justify the ongoing processes, to balance the activities of individual economic entities, demonstrating the reasons for their structuring, and, finally, to promote the formation of new directions for the development.

Thus, for the innovation sector of the stimulating economy, integration is an inseparable part of the development. With the use of the effective methodological provisions, the integration approach enables to achieve optimal results in the process of coordinating the activities of economic entities under difficult conditions. At the same time, at the present stage of forming the methodological provisions of innovation activity, the integration solutions will be aimed at increasing the social, environmental and economic efficiency of the national economy as a whole. In this regard, it should be noted that social and economic technologies that are developed with the help of the integration approach will facilitate the practical implementation of the innovative solutions.

It should be stated that the targeted orientation of the integration approach application is to increase the efficiency of functioning of individual economic entities involved in the innovative development. Since the economic integration should be accompanied by the diversification of the main types of the activity of economic entities in accordance with the current market demand, in our opinion, the innovative development will be more progressive when applying the integration approach.

Integration in the most generalized definition is the condition when individual differentiated parts and functions of the system are connected with each other, as well as the process that leads to such a state. In terms of economic theory, its effect is to unite the economies, the social institutions of certain territories, the states, as well as to streamline and coordinate their activity in different spheres.

For vertical integration in the innovation sector of the economy, it is necessary to involve the state authorities, economic entities of various branches, educational and research institutions, credit and financial, investment and insurance organizations, the media and consulting organizations.

For horizontal integration there is the association of individual organizations that are engaged in the production and marketing of the innovative products that are characterized by the similarity of the technological process. It is also possible to combine two types of integration, which is no less effective and represents vertical and horizontal integration.

Thus, large innovation associations have more opportunities for effective innovative development in the operational and strategic time periods, which contributes to their competitiveness. In this regard, the strategy of innovative development that is being developed at the state level can be implemented in such fundamentally different directions as:

- supporting large competitive innovation associations;
- supporting economic entities that are small in size and coverage and are engaged in the production and marketing of the innovative products, the level of competitiveness of which does not allow them to achieve the set strategic development benchmarks independently, including increasing the social and economic efficiency of innovation activity;
- supporting both social innovative projects, programs, as well as the organizations involved in the production and implementation of social innovations;
- supporting priority innovative programs, projects, economic entities, their complexes.

Thus, with the support of the state authorities of large competitive innovation associations whose activities meet the current requirements of the market, and the organizations themselves are able to produce and market competitive products, including those on the world market, increasing the social and economic indicators of innovation activity development will be more oriented towards obtaining a commercial outcome.

However, despite the benefits of supporting large innovation associations, the development of the latter may be complicated by the fact that such large organizations will be less responsive to changes in the external environment and their focus will be on supporting the existing projects, rather than on developing the new ones.

According to the results of the sociological survey of experts, we have grouped the problems of the development of innovation activity in the regions of Ukraine (Table 1).

Table 1

Components of the Evaluation of the Problems of Innovation Activity in the Regions of Ukraine

Problematic Component	Characteristic
Institutional	Non-systematic regulation of economic processes and activities
Production	Low focus on the development of the industrial potential, engineering infrastructure, on anti-crisis policy
Financial	Inconsistency in the level of financial infrastructure development with the level of economic activity; unattractive conditions for attracting resources; inadequate state support
Social	Low economic activity of the population; cultural values
Infrastructure	Inconsistency in the level of infrastructure development with the level of economic activity
Resource	Inadequate level of providing financial, human, intellectual, information resources
Functional	Innovation market and innovation infrastructure underdevelopment; shortcomings in legal support
Managerial	Low level of the systematic regulation of innovation processes by the local authorities and top management of enterprises and organizations
Psychological	Low social and psychological orientation of the population to perceiving risk and innovation
Information	Low level of monitoring the results of the state innovation policy formation and implementation

Nowadays, despite the increasing importance of innovations in the national economy, the use of innovative management technologies is restricted. Consequently, in order to solve the existing problem, we have set the task of elaborating a set of proposals for the modernization of the administrative and communicative mechanism of the state regulation of innovation activity at the regional level ($ACMSR_{IAR}$), the vectors of which (primarily the target and stimulating components) will be directed at the effective implementation of the innovative technologies in the state management process.

The administrative and communicative mechanism of the state regulation permeates all the relations in the sphere of state regulation and represents a set of techniques, actions based on the use of objective organizational relationships among people and general organizational principles of management. The administrative and communicative mechanism is implemented, using organizational, administrative, economic, communication and psychological methods. With the help of the administrative and communicative mechanism, the state authority exercises control

over the object through the use of appropriate forms of management. It is impossible to achieve the goal of an orderly influence on the behavior of various participants of the managerial social relations without the administrative and communicative mechanism.

At the present time, the innovative technologies of state management that are advisable to use in public administration are quite diverse and multifunctional (Fig. 2).

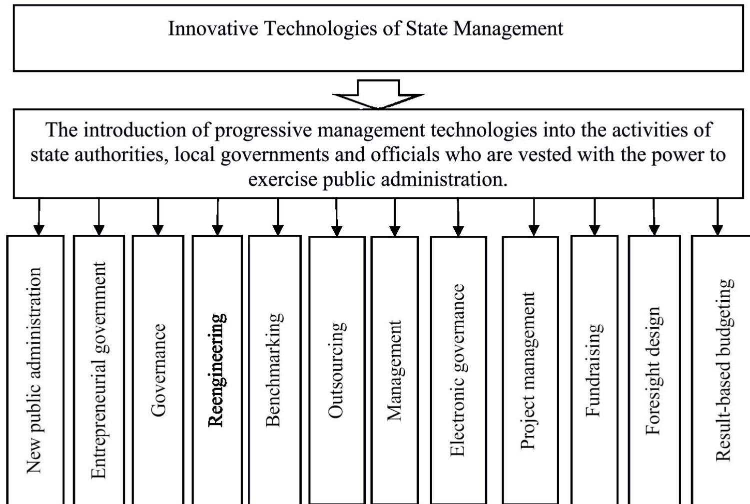

Fig. 2. Innovative Technologies of State Management
Source: systematized by the author

We consider it appropriate to pay attention to the innovative technologies, which, firstly, make it possible to increase the efficiency of the state regulation of innovation activity itself as an object of research, and, secondly, can be applied at the regional level of state management influence. They are reengineering, benchmarking, project management (project approach), result-based budgeting, and foresight design.

Reengineering. Reengineering in the state authorities is a fundamental rethinking and radical redesign of business processes to achieve sharp, abrupt improvements in the activity of the government body. Reengineering of state management processes in the state authorities may be caused by changes in the state functions of the state government body; the emergence of new types of public services or the radical transformation of the current practice of providing public services.

A common methodology for reengineering the processes of providing public services and optimizing regulatory, as well as permitting activities is not currently set out in normative and methodological documents.

Benchmarking. The use of benchmarking as a management technology in public management involves the use of a set of tools that allow identifying, evaluating and organizing constantly and systematically the use of the management techniques and methods of the most successful organizations in both the public and private sectors. That is it enables the formalization of the transfer (distribution) and adaptation of the advanced management experience at all levels of public administration, including the regional and municipal ones. Currently, there is an active development of the methodological apparatus and technologies for implementing benchmarking at the state level that form the specific nature of its application.

Project management (project approach). Nowadays project management is one of the most relevant and progressive management technologies that continues to develop rapidly. There are a lot of directions for applying the concept of project management, and they can cover almost all the spheres of human life, including public administration (Fedorchak, 2012, p.153). Any innovation in public administration can only be introduced through the project implementation. In the state that is called "the project", a significant number of specific cases are realized (dealing with various spheres and activities), but quite often they are not perceived as the elements of a particular strategy or program, since they are not positioned as systemic components, because they are implemented independently of each other. Therefore, the role of public administration should be reduced to effective project management, the identification of common trends in multi-vector projects; the unsystematic and chaotic projects generalization; revealing the real need of the society in the projects implementation.

Result-based budgeting. Line-item budgeting which is accepted for the time being and provides for the distribution of budget funds by types of expenditures, does not guarantee the effective use of public resources to fulfil the goals and objectives of the state policy. The concept of the result-based budgeting (RBB) offers a new approach to improving the quality of budget management. One of the fundamental differences between the RBB and the traditional line-item budgeting is that in case of RBB, the implementation of the budget is assessed not only by the extent to which certain budget lines have been implemented, but also by the extent to which the originally set goals and objectives have been fulfilled. For this purpose, a special system of indicators is developed and introduced, allowing to control the degree of achieving the goals and objectives, and to monitor the efficiency of public expenditures on a

regular basis. At the same time, the detailed regulation of the expenditures is cancelled and the managers of the budget funds are given greater freedom of action. This approach makes it possible to evaluate the effectiveness of public expenditures, increase the responsibility of the managers and the recipients of the budget funds for their effective use, and to determine the best ways how to use the available resources in the interests of citizens on the basis of the data obtained.

Foresight design has proved to be the most effective tool for selecting priorities in the field of science and technology, and in the future for a broader range of social and economic development issues, as well.

According to the results of foresight, large-scale national and international research programs are being developed, long-term strategies for the development of the economy, science, and technologies aimed at increasing the competitiveness and the most efficient development of the social and economic sphere are being elaborated for 25-30 years. A particular attention is paid to reaching a consensus among the main "players" from the most important strategic directions of the development by organizing their constant dialogue (within the panels of experts, working groups, seminars, conferences, etc.).

In the process of foresight, possible scenarios for the development of the certain areas of science and technology are evaluated, potential technological horizons are outlined, but this is not the "forecast" in the sense of guessing the future. Foresight comes from the options for a possible future, which may occur if certain conditions are met: defining the development scenarios properly, achieving the consensus concerning the choice of a desired scenario, taking appropriate measures to implement it.

As a basis of the $ACMSR_{IAR}$ formation, it is reasonable to take the integrated use of the mentioned innovative tools and the methodology of designing the development of innovation activity, which enables to generate the productive components of the organizational and economic support of the state regulation of innovation activity in a resource-constrained environment in the most progressive way.

At the same time, the organizational component involves the development of the perspective structure for managing the implementation of innovative management tools, and the economic component is a system of methods, approaches and methodology used for planning, motivating and monitoring the development of innovation activity.

The algorithm for the $ACMSR_{IAR}$ formation, based on the methodology of designing the development of innovation activity, can be presented in the form of a certain sequence of stages.

At the first stage, the requirements (targets), which it should comply with, are determined. They are:

- the ability to adapt to the transitional conditions and processes of changing social and economic, political and organizational forms of the state activity;

- providing functional flexibility and mobility that correspond to the existing organizational and economic conditions of the market and increase the ability of the public administration system to change the structure of the organization of power and the management of the social development;

- compliance with the goals and values of the regional public administration system and its structural elements in the context of interactive structural changes while implementing the state management innovations;

- the use of process, systematic and project approaches at all the stages of implementing the state management innovations: "shock – mobilization of adaptive resources – response to the external innovation challenges";

- applying the system of "the result-based budgeting", as well as control and analysis of resource capabilities that allow adjustments in case of changing the conditions affecting their effectiveness, in order to achieve the intended effect.

The purpose of the next stage is to build a system of factors that ensure the efficient $ACMSR_{IAR}$ functioning. We have carried out the research that has made it possible to identify five groups of these factors, which are intended to ensure the effective implementation of the state management innovations (SMI) (Fig. 3).

It is important to note that the methodology of designing the development of innovation activity is its integrating element and characterizes the state management activity as a network of business processes, the management of which is carried out in accordance with the PDCA (Plan-Do-Check-Act) methodology.

It should be emphasized that the process approach is, first of all, a change in thinking associated with the transition from individual functional tasks to the construction of the whole state management on the basis of business processes managing and their modelling.

The systematic approach to the methodology of designing innovation activity involves the use of two concepts (George, 2006, p.63).

1. Lean Manufacturing is the optimal organization of production where operations, actions and conditions that do not create additional consumer value are unacceptable or minimized. First of all, this production is aimed at identifying and reducing losses in processes, thereby increasing its speed and efficiency.

2. Six Sigma is based on the Shewhart-Deming PDC (S) A cycles and is characterized by cycling and the introduction of changes and improvements

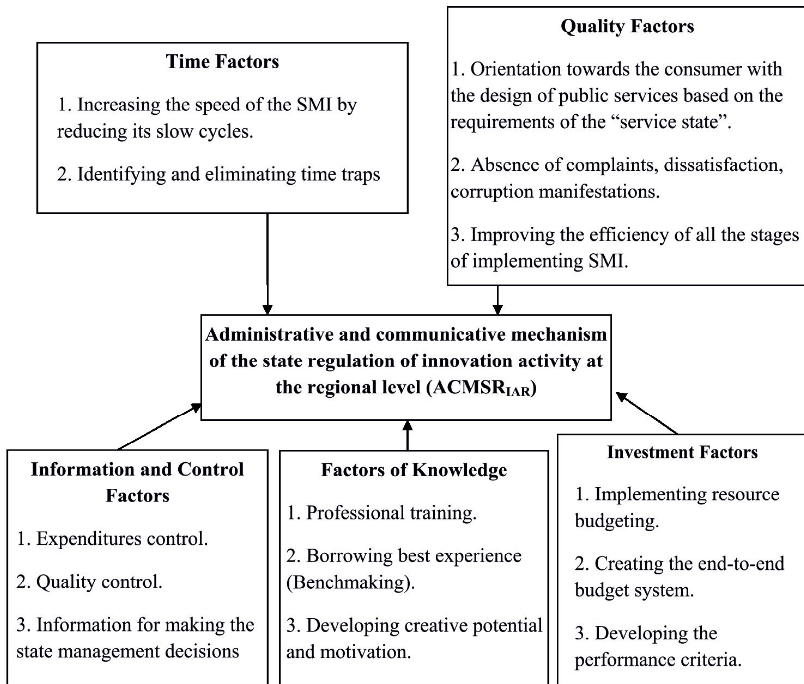

Fig. 3. The System of the Efficiency Factors of the Administrative and Communicative Mechanism of the State Regulation of Innovation Activity at the Regional Level
Source: systematized by the author

in any business process. There are two types of cycles: 1) DMAIC (Define – Measure – Analyze – Improve – Control), 2) DMADV (Define – Measure – Analyze – Design – Verify).

The DMAIC cycle is used to improve the existing processes that do not meet customer requirements, while the DMADV cycle is used to create a new product or a new process. The cycles of the "Six Sigma" concept are the basis for managing any activity, that is, it is applicable both to the process as a whole and to the individual tasks in its composition.

Due to the fact that the project approach application is the most effective form of implementing the SMI, we have used the approaches that are characterized by the synergistic effect as the basis of the methodology of designing the development of innovation activity. This effect is achieved by systematizing and integrating various models of project management with international and national standards that allows combining and harmonizing them as much as

possible in order to increase the effectiveness of the SMI. We believe that this innovation will enable to provide a methodology for project management in process-oriented institutions within the framework of $ACMSR_{IAR.}$

To implement the SMI effectively, it is necessary to analyze the existing and form a perspective resource potential, which is a set of opportunities on the basis of which the state management influence on the factors ensuring the effectiveness of the organizational and economic mechanism of the state regulation of innovation activity is organized.

All the resources of the system under investigation are limited within a specific space-time interval. As a consequence, there is a desire for their best (optimal) use in order to maximize the result if the amount of the resources is known, or to minimize the latter if the result is predetermined (Innovatsiinyi rozvytok ekonomiky: model, systema upravlinnia, derzhavna polityka,2005, p.54).

Thus, the system of the resource potential of the $ACMSR_{IAR}$ is based on the following main types of resources: material, technical, information, human and financial. In addition, there should be an effective technological and infrastructural support that facilitates the full implementation of the SMI.

It can be concluded that the result of the formation of the $ACMSR_{IAR}$ is a scientifically grounded organizational model of the implementation of the SMI.

Summarizing the information mentioned above, it should be noted that the effective work of $ACMSR_{IAR}$ will be carried out while applying the methods and approaches of modern state management, which, in turn, indicates its self-sufficiency. The developed conceptual model of such a mechanism has the subject and the object, the structure, forms and levers, conditions and factors that fully reflect the properties of the implementation of the SMI, which allows simulating these modernization processes as accurately as possible (Fig. 4).

The preparatory blocks (business and market, personnel), blocks of organizational and managerial actions (financial and economic, organizational and service, resource-providing) and a self-improvement block are the constituent parts of $ACMSR_{IAR}$. The set and interaction of these blocks is a system of organizational and economic forms, methods and techniques that are used for implementing the SMI

Based on the business-market block, using the resource-personnel potential and financial capabilities of a certain state institution, the $ACMSR_{IAR}$ that has been developed by us will maximize the reduction of variability in management and service processes, as well as increase their speed, quality and efficiency.

Due to the relevance of the development and implementation of $ACMSR_{IAR}$, we have identified the basic principles of this mechanism:

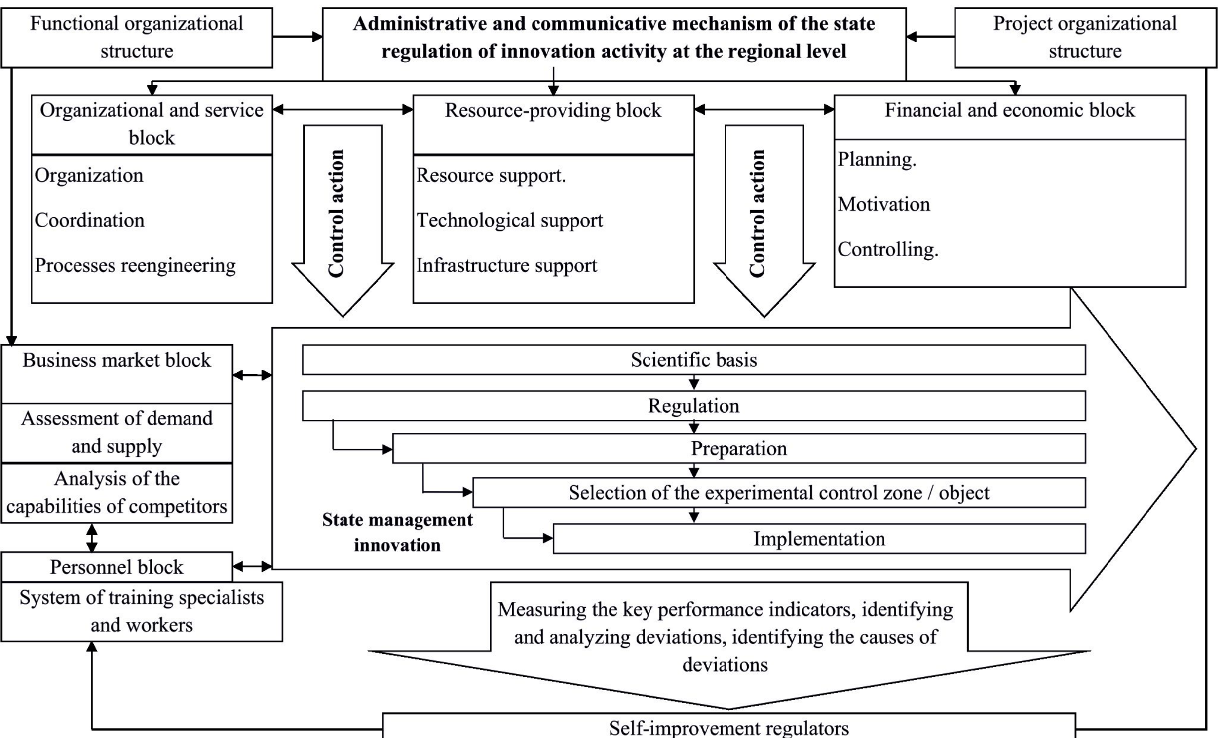

Fig. 4. The Model of the Administrative and Communicative Mechanism of the State Regulation of Innovation Activity at the Regional Level
Source: systematized by the author

- flexibility and adaptability of forms, structures and methods of state management processes in relation to changes in the external environment;
- integration of the process, systematic and project approaches when implementing the SMI;
- continuous self-improvement in order to reduce time and increase the effectiveness of the state management processes.

Our studies show that it is advisable to implement the $ACMSR_{IAR}$ formation in stages by developing its main structural elements:

1. Optimal organizational structure of the state authorities, taking into account the interconnection of the processes of implementing the SMI.
2. Organizational model of the implementation of the SMI that defines the criteria for the initiation and effectiveness of management action, the mechanisms of interconnection, the content and results of the state management processes.
3. Documentation system that allows regulating the implementation of the SMI, improving the consistency and providing the objective evidence of the results obtained.

Thus, $ACMSR_{IAR}$ should be a system of integrated influence of the structure of the state institution, the organizational model, the documented rules and requirements for implementing the SMI.

Along with this, we have developed a model for implementing the SMI while exercising the state regulation of innovation activity at the regional level, which is a system of interrelated processes that determine the directions and sequence of implementing the SMI (Fig. 5). The practical use of this model allows streamlining the process and reducing the cost of its implementation.

Conclusion

As a result of our research, we have established that to ensure the effectiveness of the model of implementing the SMI while exercising the state regulation of innovation activity at the regional level, the most rational is the use of a balanced matrix management structure that provides for the division of the personnel into process managers and functional executives. In this case, the first of them must coordinate the execution of processes and be responsible for their final results. The functional executives (subdivisions and services) are required to be responsible for implementing a set of activities, determined by the process managers.

A distinctive feature of the model of implementing the SMI while exercising the state regulation of innovation activity at the regional level is the use of the progressive management technologies to establish a close relationship between the regional public administration, innovation developers and enterprises of the real sector of the economy.

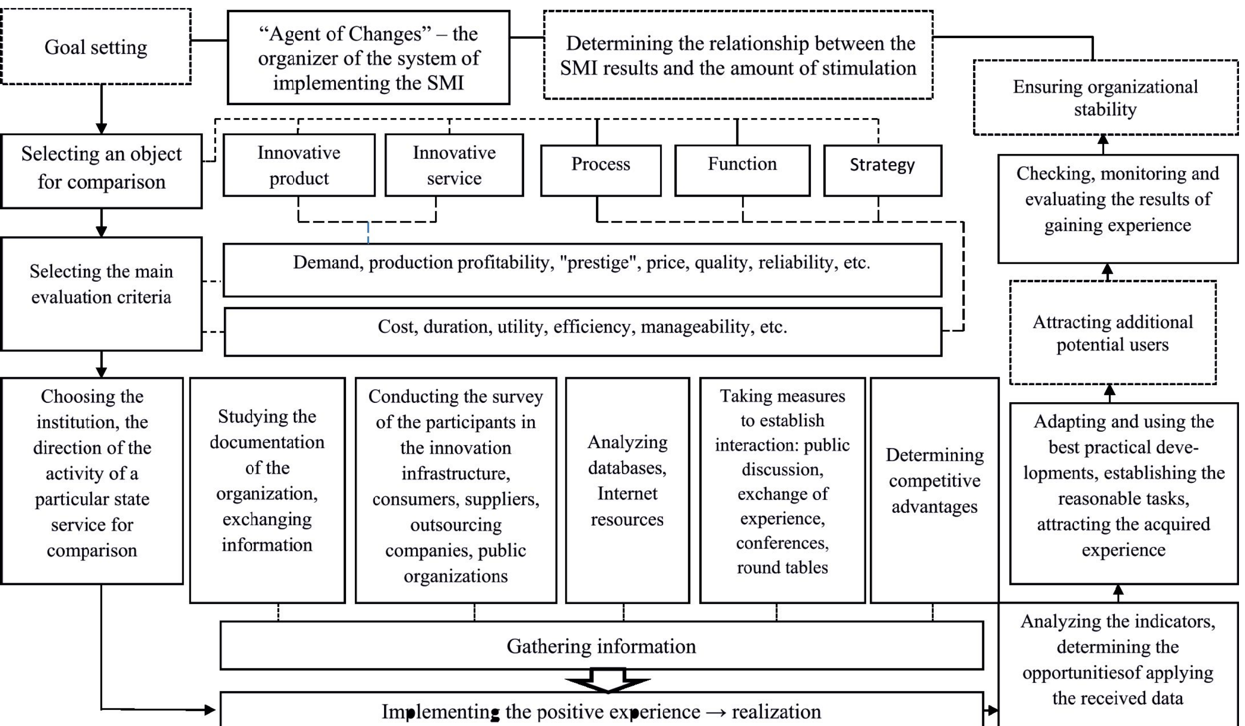

Fig. 5. Model of Implementing the SMI while Exercising the State Regulation of Innovation Activity at the Regional Level

Source: systematized by the author

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Streszczenie

W tekście przedstawiono podejście strategiczne w kwestii poprawy mechanizmów regulacji państwowej w zakresie aktywności innowacyjnej na poziomie regionalnym. Wspomniane podejście jest ukierunkowane na zwiększenie wkładu aktywności naukowej oraz innowacyjnej w kreowanie naukowego oraz technologicznego przełomu w kraju, w rozwój gospodarki regionu oraz poprawę jakości życia jego populacji.

Uzasadniono konieczność stymulowania integracji rynkowej pomiędzy funkcjonującymi instytucjami infrastruktury innowacyjnej. Podkreślono, że poprzez wykorzystanie efektywnych podstaw metodycznych podejście integracyjne pozwala osiągać optymalne rezultaty w procesie koordynacji działalności podmiotów gospodarczych w złożonych warunkach. Według autorów, na aktualnym etapie tworzenia założeń metodologicznych aktywności innowacyjnej, decyzje integracyjne będą ukierunkowane na zwiększenie efektywności gospodarki narodowej w całości. Przewidywać należy, że technologie socjalno-ekonomiczne, które opracowuje się przy pomocy podejścia integracyjnego, będą sprzyjać praktycznej realizacji rozstrzygnięć innowacyjnych.

W tekście zaprezentowano zestaw propozycji w kwestii modernizacji mechanizmu administracyjnego oraz komunikacyjnego w zakresie regulacji państwowej aktywności innowacyjnej na poziomie regionalnym. Komponenty celowa oraz motywacyjna tego mechanizmu pozostają ukierunkowane na efektywną implementację technologii innowacyjnych w ramach państwowego procesu zarządczego. Udowodniono, że rozsądnym jawi się zastosowanie metodologii projektowania rozwoju aktywności innowacyjnej, co umożliwia generowanie w najbardziej progresywny sposób komponentów produktywnych wsparcia organizacyjnego i ekonomicznego regulacji państwowej dla aktywności

innowacyjnej w środowisku ograniczonym w zasoby. Metodologia ta powinna być stosowana jako podstawa formowania mechanizmu administracyjnego i komunikacyjnego regulacji państwowej w zakresie aktywności innowacyjnej na poziomie regionalnym.

Słowa kluczowe: *regulacja państwowa, mechanizm regulacji państwowej, aktywność innowacyjna, region, regionalna polityka innowacyjna*

Резюме

В статье обоснован стратегический подход к совершенствованию механизмов государственного регулирования инновационной деятельности на региональном уровне, направленный на повышение вклада научной и инновационной деятельности в научно-техническое развитие страны, экономику региона и улучшение качества жизни его населения.

Обоснована необходимость стимулирования рыночной интеграции между функционирующими институтами инновационной инфраструктуры.

Подчеркивается, что при использовании эффективных методических основ интеграционный подход позволяет достигать оптимальных результатов в процессе координации деятельности субъектов хозяйствования в сложных условиях. По мнению авторов, на современном этапе формирования методологических положений инновационной деятельности, интеграционные решения будут направлены на повышение эффективности национальной экономики в целом. Предполагается, что социально-экономические технологии, которые разрабатываются с помощью интеграционного подхода, будут способствовать практической реализации инновационных решений.

Приведен комплекс предложений по модернизации административно-коммуникационного механизма государственного регулирования инновационной деятельностью на региональном уровне, целевая и мотивационная составляющие которого направлены на эффективное внедрение инновационных технологий в государственно-управленческий процесс. Доказано, что в основу формирования административно-коммуникационного механизма государственного регулирования инновационной деятельностью на региональном уровне целесообразно положить методологию проектирования развития инновационной деятельностью, которая позволяет наиболее прогрессивным путем в условиях ограниченности ресурсов сформировать производительные компоненты организационного и экономического обеспечения государственного регулирования инновационной деятельности.

Ключевые слова: *государственное регулирование, механизмы государственного регулирования, инновационная деятельность, регион, региональная инновационная политика.*

Анотація

Обґрунтовано стратегічний підхід до вдосконалення механізмів державного регулювання інноваційної діяльності на регіональному рівні, спрямований на підвищення внеску наукової та інноваційної діяльності в науково-технічний прорив країни, у розвиток економіки регіону та поліпшення якості життя його населення.

Обґрунтовано необхідність стимулювання ринкової інтеграції між функціонуючими інституціями інноваційної інфраструктури. Підкреслюється, що за умов використання ефективних методичних основ інтеграційний підхід дає змогу досягати оптимальних результатів у процесі координування діяльності суб'єктів господарювання у складних умовах. На думку авторів, на сучасному етапі формування методологічних положень інноваційної діяльності інтеграційні рішення будуть спрямовані на підвищення ефективності національної економіки в цілому. Передбачається, що соціально-економічні технології, які розробляються за допомогою інтеграційного підходу, сприятимуть практичній реалізації інноваційних рішень.

Наведено комплекс пропозицій щодо модернізації адміністративно-комунікаційного механізму державного регулювання інноваційної діяльності на регіональному рівні, цільова і стимулювальна складові якого спрямовані на ефективне впровадження інноваційних технологій у державно-управлінський процес. Доведено, що в основу формування адміністративно-комунікаційного механізму державного регулювання інноваційної діяльності на регіональному рівні доцільно покласти методологію проектування розвитку інноваційної діяльності, яка дає змогу найбільш прогресивним шляхом в умовах обмеженості ресурсів сформувати продуктивні компоненти організаційного та економічного забезпечення державного регулювання інноваційної діяльності.

Ключові слова: *державне регулювання, механізми державного регулювання, інноваційна діяльність, регіон, регіональна інноваційна політика.*

Section 4.
DECENTRALIZATION REFORMS AND DEVELOPMENT OF SELF-GOVERNMENTS

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THE ANALYSIS OF SELECTED INDICATORS OF THE CAPACITY OF THE UNITED TERRITORIAL COMMUNITIES IN UKRAINE AND WAYS OF THEIR IMPROVEMENT

Summary

The article analyzes selected indicators of the capacity of the united territorial communities in the regions of Ukraine, by studying their financial and resource base, as well as developing effective ways to improve the indicators of the capacity of the united communities.

At the beginning of the article, the authors stress on a need to adopt the Law of Ukraine «On Voluntary Association of Territorial Communities». Measures for the successful implementation of the provisions of the relevant Law and the rapid and successful process of association of territorial communities are proposed. Further, the study deals with one of these forms of state support for the voluntary association of territorial communities as the development of long-term plans for the formation of territories of regions' communities. It is noted that today long-term plans are not yet fully implemented due to non-compliance with the territorial boundaries defined during the preparation of the associations' projects, the absence of a thorough socio-economic analysis of the level of community development, disregard for community peculiarities, etc. In general, five variants of voluntary association of territorial communities are described.

The study focuses on the analysis of four indicators that determine the financial capacity of the united territorial communities: the volume of revenues of the general fund of their local budgets, the rate of income per person, the presence of development budgets, subsidized budgets of the united communities. In addition to these indicators, the article also analyzes the state of staffing (personnel resource) in the united communities.

At the end of the article it is summarized that the provision of financial and resource capabilities of the united territorial communities in Ukraine, to date, is insufficient. Only 15% out of the 668 existing united territorial communities correspond to the Government Method of Formation of Capable Territorial Communities. They have formed territorial structure, sufficient resources for their own sustenance, and they are relatively financially capable communities.

The study suggests a number of ways to improve indicators of the capacity of the united territorial communities.

***Keywords**: long-term plan for the formation of community territories, association of territorial communities, indicator of the capacity of the united territorial community.*

At present, the formation of the united territorial communities takes place based on the Concept for the Reform of Local Self-government and Territorial Organization of Power in Ukraine, which was approved by the Order of the Cabinet of Ministers of Ukraine on April 1, 2014. It is also based on the Action Plan for the implementation of this Concept from June 18, 2014, No. 591-p. for implementation of the aforementioned Concept's provisions in the shortest terms. Moreover, the reform is implemented according to the Law of Ukraine «On Voluntary Association of Territorial Communities» from February 5, 2015, No. 157-VIII. Its provisions were developed by the Committee on State Building and Local Self-Government and other committees of the Verkhovna Rada of Ukraine, on the initiative of the Cabinet of Ministers of Ukraine; the Method of Formation of Capable Territorial Communities, approved by the Cabinet of Ministers of Ukraine on April 8, 2015, No. 214 and a number of other legislative and regulatory acts.

It should be noted that the necessity of the adoption of the Law of Ukraine «On Voluntary Association of Territorial Communities», which regulates relations arising in the process of voluntary association of territorial communities of villages, settlements, cities, and establishes the order of such association (Zakon Ukrayiny «Pro dobrovilne obyednannya terytorialnykh gromad», 2015), was due to the contradiction of the provisions of Article 6 of the Law of Ukraine «On Local Self-Government in Ukraine», lack of procedures for the association of territorial communities of villages, settlements, cities and other objective reasons. After all, the existing system of local self-government bodies, taking into account the current administrative-territorial structure of Ukraine, does not allow forming self-sufficient communities. Accordingly, the implementation of this legislative act's provisions, together with other legal acts, in our opinion, will allow in the future creating capable communities that would own the territory, sufficient financial and material resources, objects of social and industrial infrastructure, necessary for efficient and effective management, addressing local issues and needs of the population (Yemelyanov, Shulga, 2017, p. 53).

However, we would also like to point out the shortcomings of the text of the Law and the promptness of its adoption. Firstly, this is the aspect of the

process of association of territorial communities on the voluntary bases. Today it does not correspond to its essence, because there are peculiar pressures from the state (if there is no association, such communities do not receive funding) and separate groups of population (substitution of concepts, distortion of information, intimidation to the public, etc.). Secondly, this is the aspect of imperfection and lack of reasonableness of long-term plans for the formation of community territories. Thirdly, the lack of legally defined mechanisms for further functioning of the newly formed united communities (the Law of Ukraine «On Voluntary Association of Territorial Communities» does not define such mechanisms, most of its norms are of a reference nature), due to the absence of corresponding changes to the Tax, Budget, Land Codes of Ukraine and other normative acts. The introduction of the institute of the village elder after the unification of communities in those settlements, in the territories of which local councils previously functioned, causes many questions from community members regarding the level of his authority and real effectiveness in representing their interests and resolving local issues. The unsatisfactory state of roads, the lack of objects of social and industrial infrastructure on community territories, etc. are problems of paramount importance, which now are almost not solved. Moreover, they cause various kinds of inconveniences for the people themselves. Accordingly, the implementation of the Law of Ukraine «On Voluntary Association of Territorial Communities» contradicts one of its own postulates – the quality and accessibility of administrative services cannot be lower than before the unification (Yemelyanov, Shulga, 2017, p. 53). Proceeding from the above and taking into account that it is impossible to stop the process of unification of territorial communities, we believe that in order to successfully implement the provisions of this Law and provide fast and successful process of community unification, it is necessary to:

- remove the aspect of voluntariness by refinement of legislation in this area;
- place a great emphasis on the development of social and production-industrial infrastructure on the local level, especially in the territories of those communities that have already been united;
- ensure accessibility and quality of educational, medical, social and other public services;
- develop pilot projects for the development of regions in certain regions, as examples for other regions of the state.

In the case of failure to do so, the process of association of territorial communities may eventually fail and not achieve the goal set by the state at the start of the process of reforming local self-government and decentralizing public authority and it may not justify expectations of the Ukrainian people for the long-awaited change for the better.

The state carries out informational, educational, organizational, methodical and financial support of the voluntary association of territorial communities in the process of reforming local self-government. The development of long-term plans for the formation of regions' community territories is one of these forms of state support. The long-term plans are developed by the relevant regional state administrations in accordance with the Method of Formation of Capable Territorial Communities, elaborated by the Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine (hereinafter – MinRegion) and approved by the Cabinet of Ministers of Ukraine on April 8, 2015, No. 214.

It should be noted that this Method, supplemented by the Law of Ukraine «On Voluntary Association of Territorial Communities», became such document that consolidated methodological recommendations on formation of capable territorial communities through their voluntary association. The existence of such plans and their subsequent implementation is mandatory necessity, because the state must ensure the formulation and implementation of state policy on territorial organization of power, administrative and territorial structure of local government and its development.

According to the changes made to the Budget Code of Ukraine, all financial preferences provided for newly formed united territorial communities are given in the case of community unification according to the approved long-term plans. This is a major fuse for distributing a large number of ineligible, subsidized and resource-poor united territorial communities. In fact, this is the main function of long-term plans.

There is a need to emphasize the fact that the meaning of modern reforms in the field of local self-government is in the improvement of the level and quality of life of country's population, especially rural, through financial, organizational, legal and social strengthening of communities of Ukraine. In other words, this is the formation of capable territorial communities in Ukraine. In order to achieve this goal, one must clearly understand which community is capable and which is not.

For example, I.O. Drobot and I.V. Shulyar determine territorial communities through four criteria of their self-sufficiency: 1) the status of the primary subject of local self-government; 2) the self-sustainability of the economic system; 3) the presence of territory and population for expanded reproduction; 4) the population of the community represents itself as a part of civil society (Drobot, 2009).

This statement, in our opinion, is clear and understandable for the perception of the meaning of the term «capable territorial community». However, based on already defined criteria for self-sufficiency of communities, we consider

it appropriate to supplement them with such criteria as the ability to provide living for themselves independently and the opportunity to act independently and make decisions.

The capacity of territorial communities can be determined also based on their legal personality, which includes three elements: legal capacity, ability to work and delinquency. For instance, legal capacity of territorial communities means the ability to have any rights and obligations, regardless of their sectoral nature. Instead, ability to work is the ability of territorial communities to exercise their rights and responsibilities. However, the vast majority of our citizens are brought up in the spirit of paternalism, that is, the passive expectation of solving their problems by the state or public authorities in general (Kampo, 1999, p. 8). This leads to the fact that today citizens having the right to participate in local government, do not use it. In turn, delinquency is the capacity of territorial communities to bear legal responsibility, which can be characterized as responsibility for the degree of realization of their own interests (Chapala, 2006, p. 145). For example, communities should be responsible for the effectiveness of using various kinds of resources provided from centralized state funds. Consequently, a capable territorial community is the primary collective subject of local self-government, which is the bearer of rights and responsibilities and is able to implement them by solving issues of local importance independently based on its own material and financial base and, accordingly, bears responsibility for its activities (Ibragimova, 2015, p. 42-43).

According to the Method of formation of capable territorial communities, such territorial communities of villages (towns, cities) are capable ones, which, as a result of a voluntary association, can independently or through appropriate local self-government bodies provide an adequate level of service provision, in particular in the fields of education, culture, health care, social protection, housing and communal services, taking into account personnel resources, financial support and infrastructure development of the respective administrative-territorial unit (Postanova Kabinety Ministriv Ukrayiny «Pro zatverdzhennya Metodyky formuvannya spromozhnykh terytorialnykh gromad», 2015).

Twenty-three regions, except Zakarpattya, submitted their long-term plans to the Cabinet of Ministers of Ukraine for approval in 2015 taking into account features of the capacity of the territorial community. The total number of communities proposed by regional state administrations in long-term plans (without Zakarpattya region, the Autonomous Republic of the Crimea, and areas of the antiterrorist operation in Donetsk and Lugansk regions) was 1429, which generally corresponded to expert predictions (Tkachuk, 2013, p. 50). At the same time, the number of the united territorial communities in each

region is different, which does not correlate with the area and population of the region. The smallest number of the united territorial communities is proposed to be formed in Luhansk region (without taking into account the temporarily occupied territories) – 24, and the largest – in Lviv region – 160. The difference between the regions is 6.5 times. The average number of the united territorial communities by regions is 60.

An analysis of long-term plans formed in the regions showed that not all of them are ideal, since most of them do not cover the entire territory of the region, which in fact violates paragraph 1 of Article 11 of the Law of Ukraine «On Voluntary Association of Territorial Communities» (Zakon Ukrayiny «Pro dobrovilne obyednannya terytorialnykh gromad»). That means that each region has certain «gray spots», in territory of which so far there is no version of any association. Given this factor, the number of the united territorial communities that can be formed in the regions can reach 2-2.5 thousand. According to some scholars, there are only two long-term plans – plans of Luhansk and Donetsk oblasts, which can be named as the most correct and realistic, where regional military-civilian administrations were responsible for their formation and approval (Hanuschak, 2015).

As a result, the Cabinet of Ministers of Ukraine did not fully agree on all the long-term plans. In total, about 66% (957) of the united territorial communities proposed in long-term plans were approved and recognized as capable ones by the Government. The Cabinet of Ministers of Ukraine issued an order for the rest of the oblasts' territories to continue the development of long-term plans within the territories outside of the designed united territorial communities that had already been agreed on.

However, today long-term plans are not yet fully implemented because of non-compliance with the territorial boundaries that were identified during preparation of association projects, the lack of a thorough socio-economic analysis of the level of community development, the failure to take into account cultural, ethnic and historical features of communities, etc. Moreover, the regional councils themselves often for one reason or another block decision-making on the adoption of such plans. As a result, communities unite regardless of long-term plans, which simply cannot take over the authority provided by the legislation, as they do not have the appropriate resources for it (material, financial, personnel, infrastructure, investment, etc.). However, at the same time, one should not forget that approval of the long-term plan is not a dogma and does not lead to the automatic unification of communities, because, in essence, it is a «road map» for the modernization of the territorial organization of the system of local self-government, its primary subject – territorial community.

At the same time, there is such component as association on voluntary basis, which gives communities the right to unite on their own. In view of this, today there is a practice of making changes to the long-term plans of regions that would correspond to the real state of communities' association. In particular, this is because in accordance with the current legislation, communities should be united in accordance with the plan in order to obtain additional authority and financial capacities. At the same time, due to political influences, difficult mechanism of creating united communities, it is easier to «adapt» the plan to the unification of communities, and not vice versa – to unite according to the plan. Such practice destroys the very idea of developing lomg-term plans as a document outlining the boundaries of the formation of self-sufficient territorial communities. However, the study of capable communities' passports, which are added to long-term community association plans, has shown that a significant part of them do not have sufficient resource base for their own independent life-support. Most of communities are subsidized, which indicates on insufficiently deep economic analysis conducted during development and approval of these plans (Yemelyanov, Shulga, 2017, p. 54)

After analyzing the foregoing, it can be argued that development and mandatory observance of long-term plans is necessary for:

- proper implementation of state policy in the sphere of territorial organization of power and administrative-territorial division;
- prevention of the formation of subsidized and insolvent communities;
- stimulation of the united territorial communities that were formed not in accordance with long-term plans, to their further unification and formation of capable communities.

Long-term plans for the formation of community territories in their content are not ideal, but they are the only basis on which territorial communities can be relied upon in the process of their association. As already mentioned above, state funding or its absence for the united territorial communities will depend on the compliance or non-compliance with the long-term plan. However, as the recent events and studies have shown, such method of deterring the spread of a large number of incapable the united territorial communities is not applied.

In practice, the regional state administration automatically revises the long-term plan, and submits this changed long-term plan rather than the initial version of it to the regional council for approval. It is possible that a united territorial community is formed in accordance with the requirements of the Law of Ukraine «On Voluntary Association of Territorial Communities», received a positive conclusion from the regional state administration regarding compliance with the Constitution and laws of Ukraine regarding voluntary

association, appeals through the regional state administration to the Central Election Commission on the appointment of the first local elections of the chairman and deputies of the united territorial community. In turn, the regional council approves the long-term plan and passes it for approval to the Cabinet of Ministers of Ukraine. In the end, the Government, following the recommendations of the profile ministry (in this case, the Minregion), despite the violation of its own Method of formation of capable territorial communities, approves such long-term plan. As a result, the fact that the Cabinet of Ministers of Ukraine approved the long-term plan is the basis for the Ministry of Finance of Ukraine to include all united territorial communities, which are agreed in the long-term plan and which have already passed the first local elections in direct inter-budgetary relations. This should be the actual appearance of a new financially independent unit of the administrative-territorial system – the united territorial community.

In general, experts highlight five options for the voluntary association of territorial communities. Let us analyze each of them.

Option 1. Association of territorial communities takes place in line with a long-term plan approved by the Cabinet of Ministers of Ukraine. Such united community receives direct inter-budgetary relations and all additional financial preferences provided in the amendments to the Tax and Budget Codes of Ukraine, as well as it forms its executive committee.

Option 2. If an association of territorial communities does not come in line with a long-term plan approved by the Cabinet of Ministers of Ukraine, but the center of the project's united community meets this plan and all territorial communities of the project's united community are also members of the united territorial community. In such circumstances, such united community can no longer receive direct inter-budgetary relations, but it becomes a separate unit of the administrative-territorial system. The de facto enlargement of the village (city or settlement) council takes place. In the future, such councils will still become part of this united territorial community, as this is, firstly, envisaged by a long-term plan, and secondly, due to existing factors in the development of the territory. At the same time, such accession is possible in two ways: voluntarily – within the limits of the existing legislation, or by the administrative decision after the adoption of the Law of Ukraine «On the Administrative-territorial System of Ukraine».

Option 3. If the association of territorial communities does not come in line with the long-term plan approved by the Cabinet of Ministers of Ukraine, and the center of united community of the project also does not meet it. At the same time, all territorial communities that have decided to unite, according to the long-term

plan, must enter another united territorial community. In such circumstances, the united community can no longer receive direct inter-budgetary relations, and de facto, it becomes simply a separate unit of the administrative-territorial system without obtaining any financial preferences provided by the changes to the Budget Code of Ukraine in the framework of financing the united territorial communities. In the overwhelming majority villages are centers of such project-united communities, where there is one or more industrial or agrarian enterprises.

Incidentally, it is interesting that the proposals for such merger options are the most common. However, such associations are incapable communities, since such project's territorial communities and existing united territorial communities are not able to exercise their own and delegated powers, their territorial structure and resource potential are insufficient to address local issues and their further development.

Option 4: If the association of territorial communities does not come in line with the long-term plan approved by the Cabinet of Ministers of Ukraine, the settlements planned to be incorporated are in different project's united communities, but the center of the project's united territorial community is in line with the long-term plan. In such circumstances, the united community also cannot receive direct inter-budgetary relations. In this case, it will be appropriate to make changes to the long-term plan and to increase the boundaries of the project's united community, since such option does not contradict the government's method for the formation of capable territorial communities.

Option 5. The association of the community and its administrative center do not meet the long-term plan; settlements are from different project communities. In such circumstances, the united community already cannot receive direct inter-budgetary relations, and de facto, it becomes simply a separate unit of the administrative-territorial system without obtaining any financial preferences. Such an option of territorial communities' association is similar to the third option (Melnychuk, Ostapeko, 2016, p. 15-21).

Such processes of approval of the unified territorial communities, which planned to hold the first local elections in October 2015, took place in all regions of the country, where long-term plans had been approved in the similar manner. This was done with only one purpose of positioning the decentralization reform of public authority as the reform that has already begun, and it cannot be stopped. Consequently, most of the newly formed united territorial communities are not capable communities. In other words, they are not able to solve independently local issues at their own expense; the number of qualified personnel is not sufficient to provide qualitative educational, medical, social and other public services; there are no budget-setting enterprises, etc.

In 2015, 173 united territorial communities were formed, in 2016 – 216 united territorial communities, which is 43 communities more than last year, in 10 months of 2017 – 278 united territorial communities, which is 62 more than in 2016 (see Tab. 1). Based on these data, it can be concluded that, despite the slow pace of association of territorial communities in Ukraine, each year there is a tendency to the increase of their number (see Fig. 1).

Table 1.

The number of the united territorial communities by the regions of Ukraine for 2015 - October 2017

Region	The number of the UTC			Total for 2015 - October 31, 2017
	as of December 31, 2015	as of December 31, 2016	as of October 31, 2017	
Vinnitsa	2	19	13	34
Volyn	6	14	20	40
Dnipropetrovsk	16	18	22	56
Donetsk	4	2	3	9
Zhytomyr	10	22	13	45
Transcarpathian	2	3	1	6
Zaporozhye	6	10	20	36
Ivano-Frankivsk	4	8	12	24
Kievskaya	1	1	7	9
Kirovograd	3	2	7	13
Lugansk	3	1	4	8
Lviv	16	6	13	35
Mykolayiv	-	19	9	28
Odessa	9	3	13	25
Poltava	14	6	19	39

Rivne	7	11	7	25
Sumy	1	15	13	29
Ternopil	27	9	4	40
Kharkiv	1	3	8	12
Kherson	1	14	11	26
Khmelnitsky	22	4	13	39
Cherkassy	3	6	18	27
Chernivtsi	10	6	10	26
Chernihiv	5	14	18	37
Total	**173**	**216**	**278**	**668**

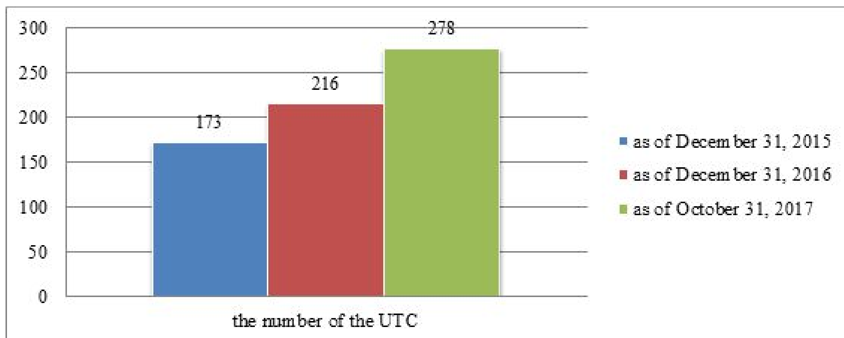

Fig. 2. The number of the united territorial communities of Ukraine for 2015 - October 2017

As a whole, as of October 31, 2017, there are already 668 united territorial communities in Ukraine, of which 89 are municipal community communities, 200 are rural settlements and 379 are rural community united territorial communities (see Tab. 2). For these almost three years, the largest number of the united territorial communities was formed in Dnipropetrovsk region (56), and the smallest – in Zakarpattya region (6) (see Tab. 1). This difference in 50 united territorial communities on the territory of one state is difficult to explain. Leaders in the formation of new units of administrative-territorial structure are also Zhytomyr (45), Ternopil (40), and Volyn (40) regions (see Tab. 1).

Table 2.

The number of the united territorial communities by the regions of Ukraine according to their status as of October 31, 2017

Region	The number of the UTC		
	urban communities	settlement communities	rural communities
Vinnitsa	6	9	19
Volyn	2	11	27
Dnipropetrovsk	3	21	32
Donetsk	4	1	4
Zhytomyr	5	16	24
Transcarpathian	3	0	3
Zaporozhye	4	7	25
Ivano-Frankivsk	1	9	14
Kievskaya	2	3	4
Kirovograd	4	2	7
Lugansk	0	6	2
Lviv	7	8	20
Mykolayiv	1	8	19
Odessa	4	6	15
Poltava	4	9	26
Rivne	1	5	19
Sumy	4	10	15
Ternopil	8	12	20
Kharkiv	1	9	2
Kherson	0	9	17
Khmelnitsky	5	16	18
Cherkassy	4	3	20
Chernivtsi	6	3	17
Chernihiv	10	17	10
Total	**89**	**200**	**379**

In our opinion, the main factors influencing the number of newly formed united communities are:

- features of the geographical (territorial) location of communities;
- active or passive public opinion of the community of the inhabitants;
- initiative or not of local authorities (lack or presence of local leadership) of the territorial community;
- lobbying the interests of certain political parties or groups;
- volumes of resource bases of territorial communities;
- social status of territorial communities;
- misunderstanding or public awareness of the need for the association of territorial communities;
- moral, psychological, financial and economic pressure of those who are interested in disruptions or in continuation of reforms that are to be implemented.

The territory of the created united territorial communities in the regions of Ukraine at the beginning of 2017 amounted to more than 600 thousand hectares, which is about 9.5% of the total area of the country, including the occupied territories, where about 3.1 million people live. In general, as already mentioned above, as of December 31, 2016, the number of officially formed united territorial communities in Ukraine amounted to 216. In fact, they are full-fledged united communities that have a common budget and have already formed all relevant services for the implementation of their own and delegated state authorities. Another 278 united territorial communities were created during the 10 months of 2017. De jure, these are already quite independent united communities, which held first local elections of the chairpersons and deputies and had been forming their executive bodies. However, according to the current legislation, budgets of such united territorial communities will be implemented from the new fiscal year, that is, from 2018.

The demographic structure of the newly formed united territorial communities suggests that at present, the largest united territorial community in terms of population is the Liman united territorial community of Donetsk region (43 thousand people). Another 80 united territorial communities have combined population of more than 30 thousand people. Approximately 200 united territorial communities have population from 10 to 20 thousand people. The rest of the united territorial communities have population of less than 10 thousand people, with about 250 united territorial communities have population of less than 5 thousand people (see Fig. 2). In general, the smallest united territorial community is the Makiyivka united territorial community of Chernihiv region (1,3 thousand people) (Kazyuk, 2016, p. 15). Thus, the population of the largest united territorial community is 27 times the size of the smallest united

community. Accordingly, the average number of newly formed united territorial communities in Ukraine is 8,7 thousand people, where the share of urban population is 65%.

At the present stage of development of capable territorial communities in Ukraine, the issue of their financial capacity has been given special significance. After all, taking into account all political, legal events and socio-economic conditions in our state, financial provision of territorial communities, today the development of capable communities in Ukraine is one of the problematic issues of state policy that requires an urgent legal, financial, and economic solution. That means that main problems of social and economic nature in local level, taking into account the specifics of the region concerned, are solved due to the availability of sufficient local finances.

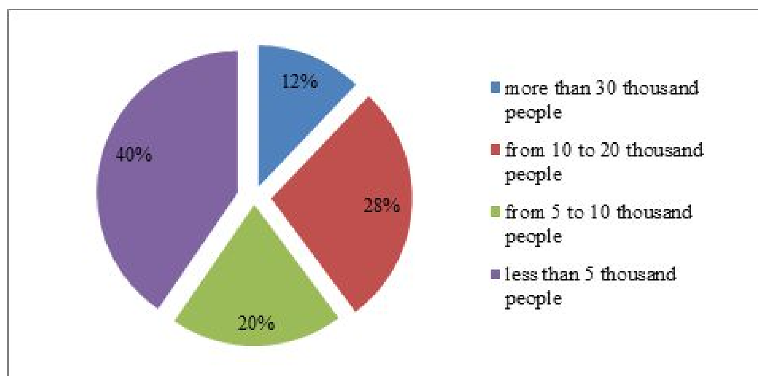

Fig. 2. Population of the united territorial communities

The essence of financial capacity of territorial communities lies in, so to speak, their financial independence (autonomy). In accordance with Part 1 of Article 143 of the Constitution of Ukraine territorial communities of villages, settlements, cities, directly or through local self-government bodies established by them, approve the budgets of the respective administrative-territorial units and control their implementation, establish local taxes and fees in accordance with the law (Konstytutsiya Ukrayiny, 1996) That is, the financial autonomy of territorial communities and local self-government bodies formed by them is in the right to collect, possess, use and dispose their own financial resources on their own. At the same time, these resources should be enough for the territorial communities to be able to provide themselves, be self-sufficient, and for local self-government bodies to carry out their functions and powers qualitatively.

Taking into account the above, we would like to emphasize that it is necessary to correctly understand the essence of the concept of «autonomy of local finances» (in particular, «autonomy of local budgets») and, in any case, not to be confused with the notion of «federalization of local finances». In this case, autonomy means not separation of the whole, but the ability to act without third-party help or guidance, to be isolated from others, but at the same time to co-exist and co-operate with others as a whole. Although, according to European standards and principles, the financial independence is required in order to build capable territorial communities, but this does not imply a complete separation in the sphere of finance.

The financial autonomy of local self-government of capable territorial communities manifests itself in the autonomy of local self-government bodies during formation, distribution, and use of financial resources necessary for the performance of functions entrusted to local authorities. Thus, if there is such financial autonomy, local finances remain an integral part of the financial system of Ukraine. Therefore, they are firmly connected with state finances by many channels.

The first indicator that determines the financial capacity of the united territorial communities is the volume of revenues of the general fund of their local budgets. For example, 4,553 million UAH was the approved average amount of revenues of the general fund of local budgets of the united communities of Ukraine for 2016 with transfers from the state budget. It is almost 5 times more than the adjusted indicators of local budgets (included in the united territorial communities) in 2015.

In addition, the volume of own revenues of local budgets of united communities grew by more than two times (by 1046 million UAH) compared to 2015 (from 827 UAH million to UAH 1873 million), due to changes to the Tax and Budget Codes of Ukraine in the context of decentralization (Kazyuk, 2016). According to the results of 2016, the largest volumes of revenues of local budgets' general fund of the joint territorial communities were recorded in Khmelnytsky region (922 million UAH, of which own resources – 327 million UAH, inter-budgetary transfers – 595 million UAH), Ternopil region (693 million UAH, including own resources – 222 million UAH, inter-budgetary transfers – 471 million UAH), and Dnipropetrovsk region (572 million UAH, including own resources – 347 million UAH, inter-budgetary transfers – 225 million UAH). The smallest indicators were recorded in Kherson region (10,6 million UAH, of which own resources – 3,8 million UAH, inter-budgetary transfers – 6,8 million UAH), Mykolayiv region (11,8 million UAH, from their own resources – 4,9 million UAH, inter-budgetary transfers – 6,9 million UAH), and Sumy

region (22,1 million UAH, including own resources – 11 million UAH, inter-budgetary transfers – 11,1 million UAH). At the same time, the volume of own resources exceeds the amount of inter-budgetary transfers only in Vinnytsia, Dnipropetrovsk, Kirovograd, Luhansk, Poltava and Chernihiv regions (see Tab. 3, Fig. 3) (Kazyuk, 2016).

Table 3.

Revenues of the general fund of budgets of the united territorial communities by the regions of Ukraine for 2015-2016

Region	Revenues of the general fund of budgets of the UTC			
	2015 (million UAH)	2016 (million UAH)		
	Own resources	Own resources	Inter-budgetary transfers	Total
Vinnitsa	16	47	41	88
Volyn	12	25	61	86
Dnipropetrovsk	126	347	225	572
Donetsk	79	99	103	202
Zhytomyr	23	62	104	166
Transcarpathian	20	31	75	106
Zaporozhye	25	56	67	123
Ivano-Frankivsk	6,8	11,9	78,5	90,4
Kievskaya	4	12	18	30
Kirovograd	14	38	37	75
Lugansk	13	38	34	72
Lviv	28	54	143	197
Mykolayiv	1,2	4,9	6,9	11,8
Odessa	54	121	165	286
Poltava	94	190	148	338

Rivne	10	25	74	99
Sumy	6,3	11	11,1	22,1
Ternopil	87	222	471	693
Kharkiv	-	-	-	-
Kherson	1,7	3,8	6,8	10,6
Khmelnitsky	152	327	595	922
Cherkassy	8,9	27,9	31,3	59,2
Chernivtsi	29	61	174	235
Chernihiv	16	59	42	101

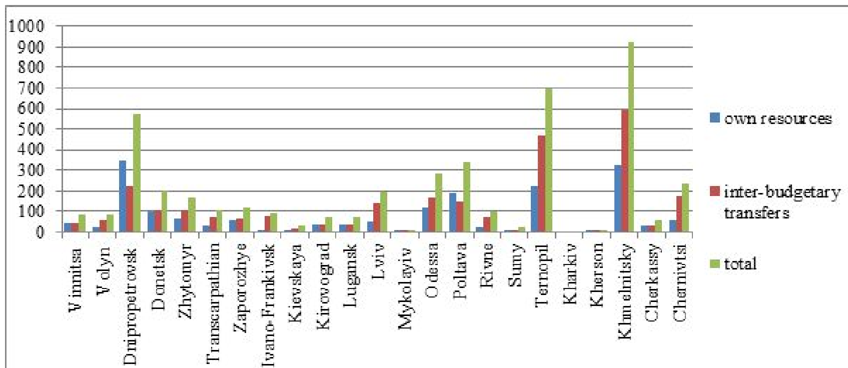

Fig. 3. Revenues of the general fund of budgets of the united territorial communities by the regions of Ukraine for 2015-2016

If we consider budgets of newly formed united territorial communities in absolute terms, then their numbers are also impressive. For instance, three united territorial communities (Vilshanitska and Mizhenetskaya in Lviv region and Lopushnensk in Ternopil region) have budgets of less than 1 million UAH. Thirty-six united territorial communities have budgets in the amount from one to three million UAH. Only 1/3 of the united territorial communities' budgets are more than 10 million UAH. The greatest budget has the largest according to population Limanskaya united territorial community of Donetsk region – 74 million UAH (Kazyuk, 2016). The average indicator of the revenue part of budgets of all united territorial communities is 11,7 million UAH, according

to the regions – 199,4 million UAH (of which own resources are 81,5 million UAH, inter-budgetary transfers –117,9 million UAH) (see Tab. 3).

It is worth to emphasize that such situation and provided in this research further examples of large differences in the figures between the united territorial communities of regions are explained by the different number of such communities in each region of Ukraine. Accordingly, the numerical indicator is higher in those regions, which have a large number of united communities, than in those with only a few united communities.

According to the changes to the Budget Code of Ukraine, the united territorial communities received 60% of tax on personal income (as established in accordance with the law and long-term plan of the formation of territorial communities), which in the planned figures of budgets in 2016 amounted to 1020 million UAH and accounted for 55% of local budgets' own revenue. A tax on land (335 million UAH (18%)), a single tax (242 million UAH (13%)) and an excise duty (209 million UAH (11%)) are next significant taxes as main sources of budget revenues of the united territorial communities (see Fig. 4) (Kazyuk, 2016).

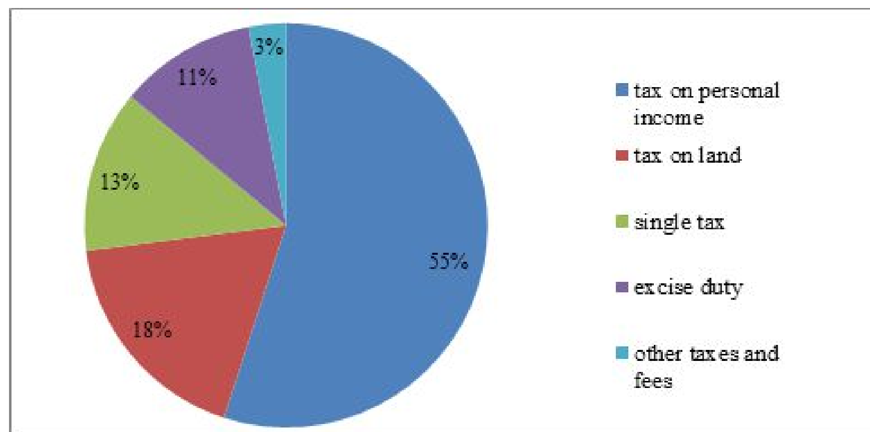

Fig. 4. Percentage ratio of tax revenues in the amount of own income of local budgets of the united territorial communities in Ukraine in 201

If you look at the tax revenues of local budgets of the united territorial communities by regions of Ukraine in 2016, you observe that indeed such mandatory payments as tax on personal income, tax on land, single tax and excise duty amount to more than 90 % of own resources in the revenue fractions of budgets of the united territorial communities. At the same time, the largest

amount of these tax revenues in 2016 was accrued in Dnipropetrovsk (338 million UAH), Khmelnytsky (318 million UAH), and Ternopil (212 million UAH), while the lowest – in Kherson (3,71 million UAH), Mykolayiv (4,5 million UAH) and Sumy (10,3 million UAH) regions (see Tab. 4) (Kazyuk, 2016).

Table 4.

Main tax revenues to budgets of the united territorial communities by the regions of Ukraine in 2016

Region	Tax revenues to budgets of the UTC (million UAH)				
	tax on personal income	tax on land	single tax	excise duty	Total
Vinnitsa	28	7	7	4	46
Volyn	9	5	4	6	24
Dnipropetrovsk	210	49	32	47	338
Donetsk	54	27	8	4	93
Zhytomyr	37	12	6	2	57
Transcarpathian	16	1	4	7	28
Zaporozhye	26	11	12	5	54
Ivano-Frankivsk	5,7	2	1,2	2,7	11,6
Kievskaya	8	2	1	1	12
Kirovograd	20	5	6	5	36
Lugansk	26	4	5	2	37
Lviv	24	15	4	9	52
Mykolayiv	3,58	0,4	0,5	0,02	4,5
Odessa	56	27	21	14	118
Poltava	95	51	19	20	185
Rivne	16	5	2	1	24
Sumy	3,5	3,4	2,5	0,9	10,3
Ternopil	130	24	32	26	212
Kharkiv	-	-	-	-	0
Kherson	1,5	1	1,2	0,01	3,71
Khmelnitsky	163	64	56	35	318
Cherkassy	17,8	5,2	3,5	0,5	27

Chernivtsi	29	6	10	11	56
Chernihiv	40	8	5	5	58

The rate of income per person is the second indicator, which determines the financial capacity of the united territorial communities. The highest average indicator of income per one person in the united territorial communities in 2016 is in Donetsk (2714 UAH), Dnipropetrovsk (2423 UAH), Chernihiv (2110 UAH), and the smallest – in Ivano-Frankivsk (373 UAH), Chernivtsi (730 UAH), Lviv (753 UAH) regions. In general, in Ukraine, the average indicator of the profitability of the budget of the united territorial communities for one person in 2015 amounted to 619 UAH, and in 2016 – 1389 UAH (in 2,2 times more), which actually corresponds to the average state indicator – 1400 thousand UAH (see Tab. 5, Fig. 5). In particular, Verbkivska united territorial community of Dnipropetrovsk region (7200 UAH / 1 person), Bogdanivska united territorial community of Dnipropetrovsk region (6900 UAH / 1 person), Baikovetsky united territorial community of Ternopil region (5600 UAH / 1 person), Yuvileyna united territorial community of Dnipropetrovsk region (4900 UAH / 1 person), Prysibska united territorial community of Poltava region (4200 UAH / 1 person) have the largest income per inhabitant. Another 14 united territorial communities have such indicator in the range from 2000 to 3000 UAH per person. In total, 91 united communities from 159 have the rate of income per person more than 1000 UAH. However, 58 united communities have lower rates of income (Kazyuk, 2016).

Table 5.

Average indicator of own revenues for one person of the united territorial communities by the regions of Ukraine for 2015-2016

Region	Average indicator of own revenues for one person of the UTC	
	2015 (UAH)	2016 (UAH)
Vinnitsa	687	1720
Volyn	423	917
Dnipropetrovsk	809	2423
Donetsk	1565	2714
Zhytomyr	409	1108
Transcarpathian	529	861

Zaporozhye	627	1550
Ivano-Frankivsk	238	373
Kievskaya	419	1147
Kirovograd	530	1448
Lugansk	521	1493
Lviv	394	753
Mykolayiv	358	1420
Odessa	640	1452
Poltava	1497	2087
Rivne	391	804
Sumy	1113	1956
Ternopil	363	990
Kharkiv	-	-
Kherson	551	1186
Khmelnitsky	527	1118
Cherkassy	514	1602
Chernivtsi	375	730
Chernihiv	747	2110

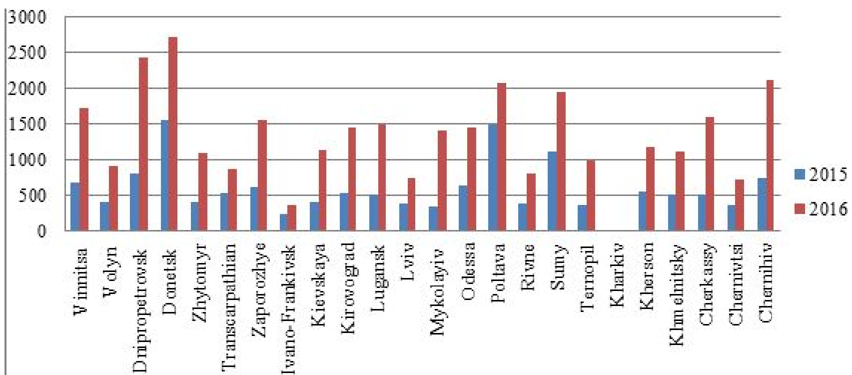

Fig. 5. Average indicator of own revenues for one person of the united territorial communities by the regions of Ukraine for 2015-2016

The development budgets is the third indicator that characterizes the financial capacity of newly formed united territorial communities. However, the development budget itself no longer indicates the amount of funds that the united

territorial community must use to develop its territory, but their number and share in the overall budget of the united territorial community. This is the main criterion for analyzing prospects of territories of the united communities' development.

Rural united territorial communities in the overwhelming majority lead in the indicator of the share of development expenditures in the own resources of the united territorial communities. Thus, budgets of the Novo-Aleksandrovsky united territorial community of Dnipropetrovsk region (almost 60%), Rozoshansky united territorial community of Khmelnytsky region (almost 50%), Kalinovsky united territorial community of Vinnytsia region (47,5%) laid down the largest share of funds in budgets for the development of united communities' territories in 2016 (Kazyuk, 2016).

The average indicator of the development budget among united territorial communities amounted to 2,5 million UAH as of the year 2016. In total, 106 budgets of the united territorial communities out of 159 have funds for capital expenditures (development budgets). One third of the newly formed united territorial communities did not provide such funds in their budgets (these are communities of Zakarpattya, Kyiv, Mykolayiv and Sumy regions). This means that such united territorial communities are already financially insolvent. Kherson (32,1%), Vinnytsya (25,7%), Luhansk (21,1%) regions have the largest share of development expenditures in the own resources of the united territorial communities (without subventions) in 2016, while in Cherkasy (0,4%), Rivne (1,4%) and Chernivtsi regions (2,6%) have the smallest (see Tab. 6) (Kazyuk, 2016).

Table 6.

Development expenditures and their share in own resources of budgets of the united territorial communities by the regions of Ukraine in 2016

Region	Development expenditures (capital expenditures) (ths. UAH)	% development expenditures in own resources of the UTC (without subventions)
Vinnitsa	20149,0	25,7
Volyn	4512,6	10,7
Dnipropetrovsk	90444,8	18,3
Donetsk	8919,6	10,6
Zhytomyr	1392,0	4,1
Transcarpathian	0,0	0,0
Zaporozhye	2554,1	3,5
Ivano-Frankivsk	1500,0	6,2

Kievskaya	0,0	0,0
Kirovograd	3108,3	8,7
Lugansk	7907,6	21,1
Lviv	7956,4	7,9
Mykolayiv	0,0	0,0
Odessa	19121,1	12,0
Poltava	30266,9	15,3
Rivne	621,8	1,4
Sumy	0,0	0,0
Ternopil	24084,5	6,8
Kharkiv	-	-
Kherson	1455,1	32,1
Khmelnitsky	28876,6	7,9
Cherkassy	126,4	0,4
Chernivtsi	3757,0	2,6
Chernihiv	8054,5	20,1

Presence of subsidies in their budgets is the fourth and the most representative indicator of the financial capacity of the united territorial communities. This indicator shows the actual volume of budget revenues of newly united communities.

Subsidies are a kind of non-repayable, irrevocable assistance without a specific purpose in the form of a certain amount of funds from the state budget, in order to balance budgets of the lower levels. They are given in cases when funds received from own local sources and fixed incomes are insufficient to form a minimum size of local budgets. In turn, subventions, as a kind of subsidy, represent a form of cash aid to local budgets from the state, which is intended for specifically defined purposes with the aim of socio-economic equalization of the respective territories. Such assistance is provided in accordance with the procedure determined by the body that has made the decision to grant it (Kaminska, 2010, p. 185). By the way, at present, the volume of subventions and their distribution between local budgets is not formalized. Therefore, there is intensive lobbying both from regions' leaders and from the people's deputies. In order to prevent this, it is necessary that transfers regardless of their nature are provided directly to budgets that are the final recipients of these transfers; the calculation of transfers is transparent, open, with consultations between state bodies and self-government bodies through their associations; procedures providing the transfers ensure timeliness, uniformity, assurance and completeness of their provision (Proekt Kontseptsiyi terytorialnoyi organizatsiyi

vlady v Ukrayini, 2013). In addition, it is also necessary to establish mechanisms for transparency and efficiency of using budget funds by introducing a program-target method for all local budgets and to introduce a medium-term and strategic budget planning system. However, taking into account the above, we would like to emphasize that provision of high subsidies to local budgets, which today is more than 70%, leads to an excessive burden on the state budget. As a result, the implementation of constant financial support with the use of the subsidy system is too burdensome for the state budget and constrains the development of small towns and large villages, which in general negatively affects the overall socio-economic development of the country.

According to the data of the Ministry of Regional Development of Ukraine, in 2016 only 22% of the united territorial communities do not have a subsidized budget (these are united communities of the Kiev and Mykolaiv regions). The most subsidized are the united territorial communities of Khmelnytsky (64338,2 thousand UAH), Ternopil (60181,4 thousand UAH) and Chernivtsi (28563,3 thousand UAH), and the least – Luhansk (246,3 thousand) UAH), Chernihiv (528,2 thousand UAH) and Kirovograd (695,5 thousand UAH) regions (see Tab. 7) (Kazyuk, 2016).

Table 7.

Subsidized budgets of the united territorial communities by the regions of Ukraine in 2016

Region	Basic / reverse subsidy (ths. UAH)	% subsidy budgets
Vinnitsa	1048,4	9
Volyn	9063,0	29
Dnipropetrovsk	-23380,9	12
Donetsk	1830,9	10
Zhytomyr	8890,9	21
Transcarpathian	6464,2	30
Zaporozhye	3320,9	8
Ivano-Frankivsk	16125,4	57
Kievskaya	0	0
Kirovograd	695,5	2
Lugansk	246,3	1
Lviv	24491,0	41

Mykolayiv	-138,9	0
Odessa	14743,3	13
Poltava	-7613,5	3
Rivne	6323,0	32
Sumy	1217,3	10
Ternopil	60181,4	30
Kharkiv	-	-
Kherson	773,6	17
Khmelnitsky	64338,2	21
Cherkassy	2399,0	8
Chernivtsi	28563,3	37
Chernihiv	528,2	7

In general, in terms of regions of Ukraine in 2016, only the united territorial communities of Ivano-Frankivsk region have subsidized budgets of more than 50%, 5 regions have subsidized budgets from 30 to 50%, 8 regions – from 10% to 30%, and 7 regions – up to 10% (see Fig. 6). The average percentage of subsidized budgets of the combined territorial communities is 27,6% (Kazyuk, 2016).

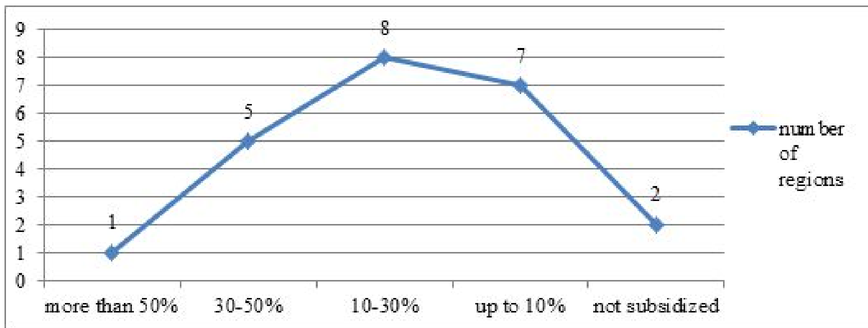

Fig. 6. Subsidized budgets of the united territorial communities by the regions of Ukraine in 2016

In addition to subsidies, in 2016 the united territorial communities received subventions from the state budget for the formation (modernization) of the infrastructure of the united territorial communities (including for the production of project and urban planning documentation) in the total amount of 1,000

million UAH. At the same time, according to the Decree of the Cabinet of Ministers of Ukraine «On Certain Issues of Granting Subvention from the State Budget to Local Budgets for the Formation of the Infrastructure of the United Territorial Communities» from March 16, 2016, the division of subventions of the united communities was carried out depending on the area of the territory and the number of villagers. The greater is the number of villagers and the area of the territory, the greater is the amount of subventions of the united territorial communities. Accordingly, the largest amount of the subvention was provided to Krasnolimanska united territorial community of Donetsk region – 23.2 million UAH, Novouishitska united territorial community of Khmelnytsky region (22,8 million UAH), and Narodnytska united territorial community of Zhytomyr region (21,7 million UAH), and the smallest – to Zavodska united territorial community of Ternopil region – 957 thousand UAH. The size of the largest subvention exceeds the size of the smallest by almost 60 times. In 2016, the largest amount of subvention was provided to the united territorial communities of Khmelnytsky (216 million UAH), Ternopil (141,5 million UAH) and Dnipropetrovsk (102 million UAH), and the smallest amount – to the united territorial communities of Kherson (4,6 million UAH) and Mykolaiv (5,1 million UAH) regions (see Tab. 8). As a whole, the united territorial communities of 6 regions received subventions for infrastructure formation of more than 50 million UAH, 3 regions – within 40-50 million UAH, 2 oblasts – within 30-40 million UAH, 3 oblasts – within 20-30 million UAH, 3 regions – within 10-20 million UAH, 5 regions – within 5-10 million UAH (see Fig. 7) (Kazyuk, 2016).

Table 8.

Amount of subvention from the state budget for the formation of infrastructure of the united territorial communities by the regions of Ukraine in 2016

Region	Subvention (million UAH)	From the total volume in Ukraine (%)	Share of subventions relative to the revenue side of the budget of the UTC (%)
Vinnitsa	5,7	0,6	12,1
Volyn	26,5	2,7	>1,6
Dnipropetrovsk	102	10,2	29,4
Donetsk	35,7	3,6	36,1
Zhytomyr	54,6	5,5	88,1

Transcarpathian	15,1	1,5	48,7
Zaporozhye	46,5	4,6	83,0
Ivano-Frankivsk	21,8	2,2	>1,8
Kievskaya	6,1	0,6	50,8
Kirovograd	8,1	0,8	21,3
Lugansk	19,2	1,9	50,5
Lviv	46	4,6	85,2
Mykolayiv	5,1	0,5	>1,4
Odessa	63,2	6,3	52,2
Poltava	57	5,7	30,0
Rivne	25,3	2,5	>1,1
Sumy	9,6	1	87,3
Ternopil	141,5	14	63,7
Kharkiv	-	-	-
Kherson	4,6	0,5	>1,2
Khmelnitsky	216	21,6	66,1
Cherkassy	12,8	1,3	45,9
Chernivtsi	45,4	4,5	74,4
Chernihiv	31,6	3,2	53,6

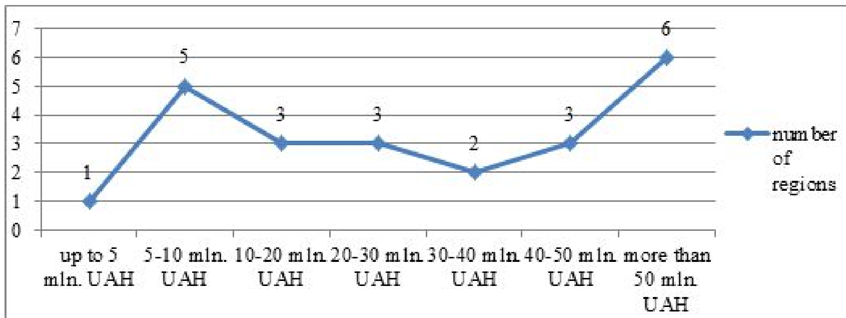

Fig. 7. Amount of subvention from the state budget for the formation of infrastructure of the united territorial communities by the regions of Ukraine in 2016

The subvention for the formation of the infrastructure of the united territorial communities is a significant support of the state. If you compare its volume to the size of the revenue part of the budgets of the united communities (own

resources), then in some cases this subvention may exceed the budgets several times. The record holders in this in 2016 became Miliavsky united territorial community of Rivne region – the excess of the state infrastructure subvention over the revenue part of the budget was 4,3 times; Vilshany united territorial community of Lviv region – 3,7 times. However, there are also such united communities where the share of the subvention relative to the revenue part of the budget is not significant: Kalinivska united territorial community of Vinnytsia oblast (4,7%), Yuvileyna united territorial community of Dnipropetrovsk region (4,8%). Looking at the regions, only in five regions the share of the subvention does not exceed the revenue part of the budget of the united communities (see Tab. 8, Fig. 8) (Kazyuk, 2016).

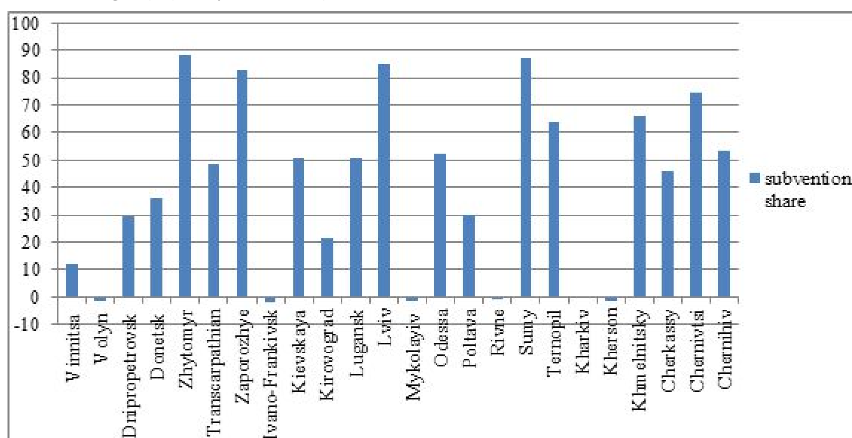

Fig. 8. The share of subvention for the formation of the infrastructure of the united territorial communities in connection to the revenue part of their budget by the regions of Ukraine in 2016

Consequently, it can be concluded that the provision of financial capacity of the united territorial communities in Ukraine to date is insufficient. Local budgets of the united communities in terms of their income and expenditure structure are imperfect, the level of local finances is low, which in turn prevents local authorities from fulfilling their own and delegated powers properly and meeting local needs. It slows down the processes of quantitative and qualitative changes in all spheres. After all, the financial capacity of the united territorial communities is a necessary and important factor for their full functioning and ensuring the proper functioning of local self-government bodies. At the same time, this ability should manifest itself in the right of territorial communities and their representative bodies to have,

and at their discretion, to dispose local budget funds of a corresponding level, sufficient to solve local issues and meet their own needs.

In addition to indicators of financial capacity of the united territorial communities, other indicators of their capacity are important. In particular, it is an indicator of staffing (personnel resource).

Personnel are the socio-economic category that characterizes human resources of an enterprise, region, and country. Unlike the labor resources that unite all the able-bodied population of the country, both employed and potential workers, the concept of «staff» includes permanent (staffing) staff, that is, able-bodied citizens who are in labor relations with different organizations (Shymanovska-Dianych, 2007, p. 47).

The personnel resource covers a set of specialists who, by their professional qualities and abilities, are capable of performing the relevant labor functions and ensuring the quality and timeliness of providing public services to the population. In this case, the personnel resource is determined by the specifics of each territorial community and may have certain characteristics (age or professional).

Today, territorial communities in Ukraine have faced the problem of qualitative and quantitative personnel provision of local self-government bodies. There is an insufficient level of qualification and experience of heads and employees of representative and executive bodies of local self-government. This, for example, is because heads of different levels of councils are elected for a certain period (some of them are elected for the first time and they lack the appropriate level of education and experience to exercise their powers) and, accordingly, are constantly changing. Therefore, there is a question of ensuring the professionalism of these individuals through the establishment of a system of advanced training. As a result, the population of the community actually loses the right to influence the personnel policy of the local self-government body in the presence of facts of low professional level of officials (Dolya, 2014).

One of the reasons for this problem is the high level of bureaucracy and corruption in local self-government bodies. The results of nationwide sociological surveys in 2007, 2009, 2011, and 2015 showed an increase in the level of bribery in areas related to the activities of local authorities. In particular, growth in cases of bribery were recorded in the following areas: receiving public housing (from 16% to 29,5%), job placement to public institutions (from 10,4% to 15,3%), registration of land ownership (from 7,1% to 9,9%), and ownership for real estate objects (from 8,8% to 11,6%)) (Stan koruptsiyi v Ukrayini. Porivnyalnuy analiz zagalnonatsionalnykh doslidzhen: 2007, 2009, 2011 ta 2015).

In addition, at the present stage, the prestige of service in local self-government bodies is extremely low, due to the low level of social protection of employees of

the mentioned sphere, the imperfection of the system of remuneration, the lack of a transparent system of bonuses, etc.

We should mention separately that the staffing of the majority of councils to the association of the communities was small and their staffing did not contain a full list of positions necessary for the work of newly formed united communities. After all, the bulk of the state authority that was previously performed by district state administrations was actually transferred to the territorial communities. Accordingly, all united territorial communities need to create new staffing in the shortest possible time and start the process of their formation. The complexity of this process is also that in rural areas, in fact, there are no skilled human resources in an adequate quantity that could ensure the implementation of all powers in the united territorial communities and provide elementary public services to the population of such communities. As a result, the less qualified staff will work in united communities, the more number of staff units will need to be created, because professionals that are more qualified perform a larger amount of work over a smaller unit of time. Accordingly, the burden on the wage fund will be large in such united communities (Melnychuk, Ostapeko, 2016, p. 28-29).

Taking into account the above, we would like to provide the following statistics, such as the average share of expenditures for the maintenance of employees in the financial resources of the united territorial communities (excluding subventions) in regions of Ukraine in 2016. Thus, the largest part of expenditures for the maintenance of employees belongs to the budgets of the united territorial communities of Kherson (41%), Sumy (37%) and Zhytomyr (36,5%) regions, and the smallest – to the budgets of the united territorial communities of Zakarpattya (15,5 %), Luhansk (16%) and Kirovograd (18%) regions. At the same time, on average, less than 10% and more than 50% of expenditures for the maintenance of employees in the financial resources of the united territorial communities (excluding subventions) were not recorded in any region of Ukraine in 2016. On average, 40-50% of expenditures on maintenance of employees in the financial resources of the united communities (excluding subventions) are on the budget of the united territorial community of Kherson region, 30-40% – on budgets of the united territorial communities of 8 regions, 20-30 % – on budgets of the united territorial communities of 10 regions and 10-20% on budgets of the united territorial communities of 4 regions (see Fig. 9) (Kazyuk, 2016, p. 15). As we see from the above indicators, a significant part (and sometimes almost half) of budgets of the united territorial communities should go to the maintenance of employees who fulfill the corresponding powers granted to them by the law on the ground. Therefore, territorial communities in the future, in the process of association,

must take into account the volume of their own budgets to cover the expenses for the maintenance of employees.

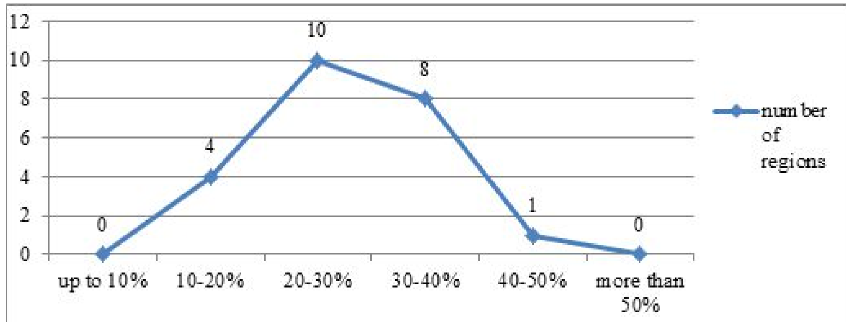

Fig. 9. The average share of expenditures for the maintenance of employees in the financial resource of the united territorial communities (excluding subventions) by the regions of Ukraine in 2016

Regarding the quantitative provision of officials in the united territorial communities, on average in Ukraine the number of staff members of the executive committee (employees) of the united communities amounted to 117 people in 2016. At the same time, the largest number of employees is approved by the Krasnolimansk united territorial community of Donetsk region – 226 people (with a population of 44,7 thousand people), and the smallest – the Smoligovo united territorial community of Volyn region – 7 people (with population 1,9 thousand people) (see Tab. 9) (Kazyuk, 2016, p. 15).

Table 9.

Quantitative provision of the united territorial communities by employees in the regions of Ukraine in 2016

Region	Average number of employees of the executive committee (employees) (persons)	Average load on 1 employee for providing services to the population (persons)
Vinnitsa	19	574
Volyn	25	255
Dnipropetrovsk	40	573
Donetsk	124	182

Zhytomyr	41	149
Transcarpathian	61	262
Zaporozhye	46	163
Ivano-Frankivsk	49	232
Kievskaya	68	155
Kirovograd	35	378
Lugansk	46	301
Lviv	28	303
Mykolayiv	24	399
Odessa	59	240
Poltava	53	225
Rivne	22	246
Sumy	36	156
Ternopil	59	230
Kharkiv	-	-
Kherson	32	99
Khmelnitsky	58	329
Cherkassy	45	131
Chernivtsi	39	328
Chernihiv	37	191

Based on the calculation of communities' population size and the number of employees, it can be noted that in 2016 the greatest burden on one servant to provide services to the population was in the Zelenodilskoye united territorial community of Dnipropetrovsk region – 1014 inhabitants (the number of staff is 20), and the least – in Baikovetsky united territorial community of Ternopil region – 68 inhabitants (the number of staff – 82 persons). In general, only the united community of Kherson region on average has 99 inhabitants per employee, 100-300 persons per employee – in 14 regions, 300-500 people – in 6 regions, and 500-1000 persons – in 2 regions (see Tab. 9, Fig. 10) (Kazyuk, 2016, p. 15). At the same time, the largest such indicators have urban united territorial communities, where the number of inhabitants is high, and staffing is actually already formed. Therefore, the number of new employees has almost not increased in such united communities. The same cannot be said about the village and township united communities in which the number of new employees has

increased significantly. In general, 265 persons was working load of employee of the public services in united territorial communities in 2016 in Ukraine (Melnychuk, Ostapeko, 2016, p. 29).

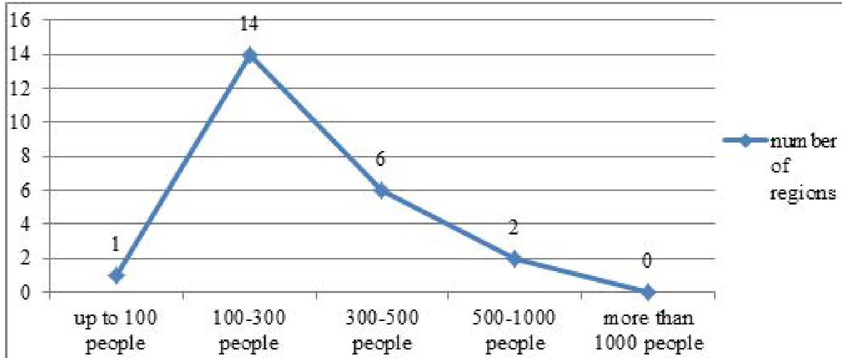

Fig. 10. The average indicator of provision of the united territorial communities by employees (the number of inhabitants per one employee) by regions of Ukraine in 2016

Taking into account the above, we can conclude that in modern Ukrainian realities the Article 6 of the European Charter of Local Self-Government is not fully implemented. The Article provides «the conditions of service of local self-government bodies' employees should allow selecting highly qualified personnel taking into account personal qualities and competence. To do this, adequate opportunities for professional training, rewards and promotion are provided» (Yevropeyska Khartiya mistsevogo samovryaduvannya, 1985).

In order to solve these problems, in our opinion, it is necessary to promote the qualitative and efficient staffing of local governments, by introducing a system of training and professional development of these bodies' employees. It can be implemented through training in specialized educational institutions (e.g., public administration institutions) or special courses by using information and communication technologies and Internet resources, etc. It is necessary to define clear requirements in the legislation for the specialization of education when enrolling in the service in local self-government bodies, taking into account the specifics of the areas of these structures' activity and the status of local councils. In addition, in order to increase the prestige of work in local self-government bodies, it is necessary to review the system of remuneration of local government officials and set a number of privileges for them (for example, privileges for communal services, free public transport, housing, etc.) (Ibragimova, 2015, p. 119).

Thus, taking into account all of the foregoing, it can be concluded that to date, only 15% out of the 668 existing united territorial communities correspond to the Government Method of Formation of Capable Territorial Communities. They have formed territorial structure, sufficient resources for their own sustenance, and they are relatively financially capable communities. The rest of the united territorial communities are not capable ones or they are still in the formation stage. Further development of such communities according to the current legislation may take place in the following ways:

1) new rural territories will be attached to city and township united territorial communities;

2) rural united territorial communities, formed close to small and medium-sized cities, will, for the most part, be attached to these cities;

3) other united territorial communities formed outside the influence of cities and settlements will be joined by other rural settlements, which also do not fall within the bounds of such influence.

At the same time, in order to increase the volume of the resource base and the level of financial capacity of united territorial communities and those communities that will be united, it is necessary to:

- take into account international experience and the current political and legal status in the country and the financial and economic opportunities of the whole state and each separate territorial community as well as other historical, social, demographic, geographical, cultural, and ethnic characteristics of each region;

- introduce relevant actual changes in domestic legislation that would exclude the conflict between certain legal norms regarding the process of public authorities' decentralization and the reform of local self-government;

- actively build social and production facilities (e.g. hospitals, outpatient clinics, educational institutions, houses of culture, stadiums, sports grounds, processing plants, factories, etc.) and develop local infrastructure (e.g. roads, water, heat and gas networks-, power supply and drainage, information and communication networks, etc.);

- develop, from an economic point of view, scientifically grounded and well-considered investment policy, to create investment projects, to attract domestic and foreign investors, to increase the transparency of the investment market, to expand the list of revenue sources of the community development budget, to create favorable conditions for the development of small and medium enterprises in the community, to develop new forms of management in the communal sector, to distribute investment subsidies provided to local budgets based on principles of justice and transparency, etc. In addition to the above, it is necessary to

introduce and implement in practice the cooperation of territorial communities based on resource-organizational cooperation (inter-municipal cooperation). The implementation of the above-mentioned measures, in our opinion, will contribute to the increase of investment and credit attractiveness of Ukrainian communities at the international level, which will accelerate the process of restoration and growth of their financial and economic potential and, consequently, the foundation and further development of capable territorial communities;

- use modern information, innovation and marketing management technologies (for example, information technology for data processing, information technology for decision support, consulting, engineering, crowdsourcing, etc.) for effective management of the resource base of the united territorial communities and its rational use.

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Streszczenie

W artykule przeanalizowano poszczególne wskaźniki potencjału zjednoczonych gmin terytorialnych na obszarze Ukrainy poprzez badanie ich zabezpieczenia finansowego i zasobowego, jak również opracowano efektywne sposoby ich poprawy.

Na początku artykułu podjęto kwestię konieczności przyjęcia na Ukrainie ustawy o dobrowolnym zjednoczeniu gmin terytorialnych. Wskazano na niedostatki zarówno samego tekstu tej ustawy, jak i na pośpiech towarzyszący jego przyjęciu. Zaproponowano także środki służące udanej realizacji postanowień wspomnianej ustawy, a więc szybkiego i pomyślnego procesu

zjednoczenia gmin terytorialnych. Następnie w badaniu podjęto kwestię jednej z form państwowego wsparcia dobrowolnego zjednoczenia gmin terytorialnych, jakim jawi się opracowanie planów perspektywicznych kształtowania gmin terytorialnych.

Zauważono, że plany perspektywiczne do tej pory nie są realizowane w pełnej mierze, co wynika z: braku respektowania granic terytorialnych, które określono w toku przygotowania projektów zjednoczenia; braku fundamentalnej analizy społeczno-ekonomicznej stopnia rozwoju gmin; braku uwzględnienie specyfiki gmin itd. Najogólniej, opisano pięć wariantów dobrowolnego zjednoczenia gmin terytorialnych.

W badaniu szczególną uwagę poświęcono analizie czterech wskaźników określających finansową zamożność zjednoczonych gmin terytorialnych: rozmiar dochodów funduszu wspólnego budżetów zjednoczonych gmin terytorialnych; wskaźnik dochodu na jednego człowieka; występowanie budżetów rozwoju; dotacyjność budżetów zjednoczonych gmin. W artykule przeanalizowano także stan zabezpieczenia kadrowego w zjednoczonych gminach.

W zakończeniu artykułu podsumowano, że zabezpieczenie samodzielności finansowej i zasobowej zjednoczonych gmin terytorialnych na Ukrainie na dzień dzisiejszy jawi się jako niedostateczne. Z 668 istniejących zjednoczonych gmin tylko 15% spełnia wymogi Metodyki rządowej, posiadając wystarczająco złożoną strukturę terytorialną i stanowiąc w związku z tym gminy samodzielne finansowo, dysponujące wystarczającą bazą zasobów zabezpieczających ich egzystencję. W oparciu o przeprowadzone badanie zaproponowano szereg sposobów poprawy wskaźników samowystarczalności zjednoczonych gmin terytorialnych.

Słowa kluczowe: *plan perspektywiczny kształtowania terytoriów gmin, zjednoczona gmina terytorialna, wskaźnik potencjału zjednoczonej gminy terytorialnej*

Аннотация

В статье анализируются отдельные показатели способности объединенных территориальных общин по областям Украины, путем исследования их финансового и ресурсного обеспечения, а также разработки эффективных способов улучшения показателей способности объединенных общин.

В начале статьи говорится о необходимости принятия Закона Украины «О добровольном объединении территориальных общин». Указывается на недостатки, как самого текста этого Закона, так и на поспешность его принятия. Предложены меры для удачной реализации

положений указанного Закона, быстрого и успешного процесса объединения территориальных общин. Далее в исследовании речь идет об одной из таких форм государственной поддержки добровольного объединения территориальных общин как разработка перспективных планов формирования территорий общин. Отмечено, что сегодня перспективные планы до сих пор не реализованы в полной мере из-за: несоблюдения территориальных границ, которые были определены при подготовке проектов объединения; отсутствия основательного социально-экономического анализа уровня развития общин; не учёта особенностей общин и так далее. В общем виде описано пять вариантов добровольного объединения территориальных общин.

В исследовании особое внимание уделяется анализу четырех показателей, определяющих финансовую состоятельность объединенных территориальных общин: объем доходов общего фонда местных бюджетов объединенных общин; показатель доходности на одного человека; наличие бюджетов развития; дотационность бюджетов объединенных общин. В статье проанализировано также и состояние кадрового обеспечения в объединенных общинах.

В конце статьи резюмируется, что обеспечение финансовой и ресурсной способности объединенных территориальных общин в Украине, на сегодняшний день, является недостаточным. Из 668 существующих объединенных общин, только 15% соответствуют правительственной Методике, непосредственно имеют сложившуюся территориальную структуру, являются относительно финансово состоятельными общинами и имеют достаточную ресурсную базу для собственного жизнеобеспечения. На основе проведенного исследования предлагается ряд способов улучшения показателей способности объединенных территориальных общин.

Ключевые слова: *перспективный план формирования территорий общин, объединение территориальных общин, показатель способности объединенной территориальной общины.*

Анотація

У статті аналізуються окремі показники спроможності об'єднаних територіальних громад по областях України, шляхом дослідження їх фінансового та ресурсного забезпечення, а також розробки ефективних способів покращення показників спроможності об'єднаних громад.

На початку статті зазначається про необхідність прийняття Закону України «Про добровільне об'єднання територіальних громад».

Вказується на недоліки як самого тексту цього Закону, так і на поспішність його прийняття. Запропоновано заходи для вдалої реалізації положень зазначеного Закону та швидкого й успішного процесу об'єднання територіальних громад. Далі у дослідженні мова йде про одну із таких форм державної підтримки добровільного об'єднання територіальних громад як розроблення перспективних планів формування територій громад областей. Зазначено, що сьогодні перспективні плани досі не реалізовані повною мірою через: недотримання територіальних меж, що були визначені при підготовці проектів об'єднання; відсутність ґрунтовного соціально-економічного аналізу рівня розвитку громад; неврахування особливостей громад тощо. У загальному вигляді описано п'ять варіантів добровільного об'єднання територіальних громад.

В дослідженні особлива увага приділяється аналізу чотирьох показників, які визначають фінансову спроможність об'єднаних територіальних громад: обсяг доходів загального фонду місцевих бюджетів об'єднаних громад; показник дохідності на одну особу; наявність бюджетів розвитку; дотаційність бюджетів об'єднаних громад. Окрім цих показників, в статті проаналізовано також і стан кадрового забезпечення в об'єднаних громадах.

Наприкінці статті резюмується, що забезпечення фінансової і ресурсної спроможності об'єднаних територіальних громад в Україні, на сьогоднішній день, є недостатнім. Із 668 існуючих об'єднаних громад, лише 15% з них відповідають урядовій Методиці, безпосередньо мають сформовану територіальну структуру, є відносно фінансово спроможними громадами та мають достатню ресурсну базу для власного життєзабезпечення. На основі проведеного дослідження пропонується ряд способів покращення показників спроможності об'єднаних територіальних громад.

Ключові слова: *перспективний план формування територій громад, об'єднання територіальних громад, показник спроможності об'єднаної територіальної громади.*

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PROCESSES OF DECENTRALIZATION OF POWER AND GOVERNANCE IN UKRAINE: ESTABLISHMENT AND DEVELOPMENT

Summary

Processes of establishment and development of decentralization of power and governance in Ukraine are analyzed in the article. It is shown that decentralization, on the one hand, should contribute to strengthening the role and capacity of communities in forming the development environment. This is because the state cannot effectively create conditions, such as reducing transaction costs in the territory, favorable microeconomic conditions, and rapid response to solving problems arising in the business process. On the other hand, the decentralization requires a strong state, which is the key to a balanced relationship between it and strong communities in the strategic perspective. It is substantiated that the rapid pace of the implementation of the reform of local self-government and territorial organization of governance in Ukraine predetermines the need to form a legal framework as soon as possible. This legal framework will make it possible to complete the formation of the territorial basis of the basic and subregional levels for the possibility of further redistribution and consolidation of powers between the central, regional, subregional and basic levels. It is proved that the financial support of the powers delegated by the state should be calculated and secured in such a way so that local self-government bodies could organize the provision of high-quality services in the cities, including providing the necessary infrastructure on the local level. The need to develop and approve standards for providing services in the fields of education, culture, social protection, health care, administrative services, infrastructure, land relations and planning of territories remains a separate issue.

Key words: *decentralization of power, local self-government, distribution of powers on the principle of subsidiarity, financial decentralization*.

Introduction

The Revolution of Dignity and the struggle for Ukraine’s freedom have created a new Ukrainian idea - the idea of dignity, freedom and future. Ukraine is in the process of transformation to a new era of history. The Ukrainian people

get a unique chance to build new Ukraine. The political events in Ukraine in late 2013 - early 2014 brought the issue of continuation of the decentralization reforms to the agenda. Maximum of governing powers were transferred to local powers. The change in the course of public administration and the definition of a new vector of the development of the Ukrainian state have strengthened the scientific interest in the study of the theoretical foundations of the classical theory of decentralization. It is the basis of the numerical models of public administration built in many developed countries, in particular in the USA and the EU.

Ukraine received an instrument and a guide for its transformations after ratification of the Association Agreement between Ukraine, of the one part, and the European Union and the European Atomic Energy Community and their Member States, of the other part (Law 1678-VII, 2014). The implementation of this Agreement's requirements will enable Ukraine to become a full member of the European Union.

The President of Ukraine Petro Poroshenko signed the Decree "On the Strategy for Sustainable Development "Ukraine-2020" on January 15, 2015. It is aimed at introducing European standards of living in Ukraine and getting the leading positions in the world (Decree No. 5/2015, 2015).

This document defines reforms of local self-government and territorial organization of power and public administration reform as a priority among the 18 priority reforms. These reforms are to be realized by the decentralization of power, among other directions of changes (Decree №5/2015, 2015). This reform is one of the priorities of the reform agenda in Ukraine, as it should play a key role in strengthening democracy in Ukraine, improving the quality of life of communities, stimulating local economic development and improving the quality of public services.

The issue of decentralization is one of the most controversial issues of recent decades in foreign science. There is a tendency that countries, including post-socialist ones, look for a new organization of public administration, oriented at democratic principles. That means that important issues of the territory's development and the provision of administrative services are delegated from the central to the regional and local levels.

The issue of decentralization is one of the most controversial issues of recent decades in foreign science. There is a tendency that countries, including post-socialist ones, are looking for a new organization of public administration, oriented at democratic principles.

In 2015, a reform of local self-government and territorial organization of power was started after the adoption of the Concept of Reform of Local Self-Government and Territorial Organization of Power in Ukraine. There is a need

to mention that today about 17% of the communities of the basic level have completed the process of unification. Therefore, the process of creation of the united territorial communities is quite active. Still, we do not have sufficient analytical basis regarding the necessary scale and limits of decentralization that we have to introduce in Ukraine during contemporary conditions of the state.

Modeling and forecasting possible positive and negative consequences of decentralization are also not present. Accordingly, we have no opportunity at the state level to introduce the process of analyzing the effectiveness of the strategic decisions taken regarding the introduction of decentralization and their timely correction.

There is also another problem, and it is profound. The scale of services provided within the community should be the base for unification of territorial communities for the potential economic and social effects of decentralization in any state. Otherwise, such associations cannot be a boost to economic growth and improvement of the quality of public services, and this is the purpose of the reform. A vivid example of this fact is the rather small number of newly created territorial communities, which have been trying over the past three years to solve the problem of optimizing the school network in the communities despite the catastrophic lack of completeness of educational institutions and significant additional maintenance costs.

The lack of the established policy and mechanisms for its provision in terms of powers' transfer on the principle of subsidiarity and financial support of the powers delegated by the state in key areas (education, culture, health care, land relations, territorial planning, infrastructure, etc.) creates real problems for the functioning of already established territorial communities. Besides that, it slows down the processes of completing the creation of a spatial basis for the activities of local self-government bodies.

The organization of control over the decision-making by local government bodies is a separate, not yet solvable, issue.

All of the above facts lead to the need to intensify state's efforts to make strategic decisions regarding the scale and limits of decentralization in Ukraine, the establishment of a clear list of authorities in the relevant fields (education, culture, health care, land relations, territorial planning, infrastructure, etc.), which should be transferred on the principle of subsidiarity to the relevant territorial level of governance, the development and approval of standards for the provision of public services and legislative regulation of the organization of control over decision-making by local authorities.

Analysis of recent research

The decentralization is one of the most controversial issues in Ukrainian and foreign science. There is a tendency that countries, including post-socialist ones, look for a new organization of public administration, oriented at democratic principles that envisage wide autonomy of local self-government bodies in solving local issues.

Understanding the process of decentralization in the system of public administration is based on the provisions of the theory and history of public administration, scientific approaches to the study of the problems of decentralization of such domestic and foreign scientists as: V. Averyanov, R. Agronoff, G. Atamanchyk, A. Breton, I. Butko, V. Vakulenko, F. F. Davemi, V. Campo, V. Knyazev, A. Kovalenko, V. Kopevichikov, D. Kohen, B. Kravchenko, V. Kravchenko, A. Krusyan, V. Kuybida, V. Vakulenko, S. Romanyuk, D. Rondinelli, J.P. Fage, M. Court, J. Dro, B. Dollery, J. Litvak, D. Rondinelli, M. Terner, J.P. Fage, D. Halmer, and others.

Scientists from Ukraine carried out numerous studies on the issues of financial decentralization. They are G. Glukha, T. Kvasha, G. Lopushnyak, I. Lunin, V. Palchuk, E. Peshina, A. Trikkalova.

Research goals

The purpose of the paper is to study the current state of formation and development of decentralization processes in Ukraine in order to formulate a list of tasks to be implemented in the process of realization of decentralization reform.

The object of research is social relations that arise in the process of decentralization of power and governance. The subject of research is state mechanisms for ensuring decentralization of power and governance in Ukraine.

Results

The Concept of Reform of Local Self-Government and Territorial Organization of Power in Ukraine was approved by the order of the Cabinet of Ministers of Ukraine on April 1, 2014. It provides for the creation of a legislative framework for the activities of local self-government bodies and executive authorities on a new territorial basis with the determination of powers and their resource support (the Cabinet of Ministers of Ukraine, the Decree No. 333-p., 2014).

In fact, this concept formulates three main tasks to be fulfilled in the process of decentralization in Ukraine:

1. To create a new territorial basis for the activities of local self-government bodies - capable united territorial communities.

2. To determine the list of powers to be transferred to the relevant territorial level of government on the principle of subsidiarity and to form the necessary legal framework for these powers' transfer.

3. To determine the standards of service provision and the amount of resources required to finance the authority.

In this paper, we will try to summarize the results of the implementation of decentralization in Ukraine for the period 2015-2017, define “bottlenecks” for the implementation of reform, and formulate a list of authorities on key areas to be transferred on the principle of subsidiarity to the appropriate level of government. In addition, we will propose a Road map for decentralization - a list of tasks that need to be implemented within the framework of the reform’s implementation of local self-government and territorial organization of power.

In accordance with the Concept of Reform of Local Self-Government and Territorial Organization of Power in Ukraine, the administrative-territorial structure should consist of three levels:

1. Basic (administrative-territorial units - communities).
2. District (administrative-territorial units - districts).
3. Regional (administrative-territorial units – the Autonomous Republic of Crimea, regions, cities of Kiev and Sevastopol).

The relevant local self-government bodies and executive bodies should function at each of these three levels of the administrative-territorial organization:

1. At the basic level - village, town, city councils and their executive bodies, representations (representatives) of separate executive bodies.
2. At the district level - rayon councils and their executive bodies, territorial bodies of central executive bodies.
3. At the regional level - the Council of Ministers of the Autonomous Republic of Crimea, regional councils and their executive bodies, regional state administrations, Kyiv and Sevastopol city councils and their executive bodies, Kyiv and Sevastopol city state administrations, territorial bodies of central executive authorities.

The creation of a balanced system of state power and local self-government capable of adopting and implementing effective political, economic and social decisions should be a key task in the formation of a new administrative and territorial system in Ukraine.

This new structure should be capable of addressing many issues of national, regional and local development, including through the introduction of the method of Multilevel Governance, using the open method of Coordination. What foresees:

- definition of common goals;
- development of general indicators;
- preparation of joint multi-level strategies and projects;
- evaluation and mutual learning.

The Concept provides the following key principles when forming the basic level:

1. The territory of the administrative-territorial unit is integral.

2. There can be no other administrative-territorial units of the same level within the administrative-territorial unit.

3. The territory of the administrative-territorial unit of the basic level is determined taking into account the availability of basic public services provided on the territory of the community (in particular, the time of arrival of emergency medical care and fire assistance in urgent cases should not exceed 30 minutes). These indicators are laid down in the methodology for the formation of capable territorial communities in the form of criteria of distance from the center of the community to the most remote settlements that are part of the united territorial community) (the Resolution of the Cabinet of Ministers of Ukraine No. 214, 2015).

In my opinion, a hidden problem associated with modeling communities not on the principle of economic feasibility lies in this issue. The principle of economic feasibility is such territorial configuration of the community that depending on the number and density of the population, the ethnic, economic and environmental specificity of the territories, as well as the natural resources available for development, and other factors, would receive an additional resource through effective management of the territories after unification.

The Cabinet of Ministers of Ukraine (the Resolution of the Cabinet of Ministers of Ukraine No. 214, 2015) developed and approved a methodology for the formation of capable territorial communities. It envisages the creation of 1300-1500 administrative-territorial units - territorial communities based on the principles laid down in the above-mentioned methodology for modeling of the basic level.

The formation of these elements of the basic level is carried out voluntarily with the provision of this process by financial incentives in the first stage.

The first elections were held in 413 united territorial communities in Ukraine as of October 1, 2017.

It is 16.7% of the territory and 3.6 million inhabitants (an area larger than Hungary or Portugal).

In addition, the first elections were held in 201 communities with a population of more than 1 million inhabitants on October 29, 2017. Forty-three newly formed communities are still waiting for a decision of the Central Electoral Committee on the appointment of elections.

It should be noted that the processes of creating communities in terms of regions occurs at different speeds. The best dynamics in the last two years has

been maintained in three regions: Dnipropetrovsk (53), Zhytomyr (45), and Ternopil (40). This way, 30% of all newly formed communities are concentrated there. The worst situation in this aspect is in Kyiv (6), Zakarpatska (8), and Lugansk (9) regions. It can be stated that, for example, more than 42% of the territories has already merged in Khmelnytsky region, about 36% - in Zhytomyr region, while the worst results are observed in the Kiev region - less than 1%.

Regarding the formation of a new district level, the economic and social necessity of association of territorial communities in one administrative district should be the key principle put forward in the ideology of creating a new subregional level. This should be done in order to form a network infrastructure that connects the united territorial communities and to receive a positive effect from taking into account all the positive externalities that arise in the process of providing a variety of community services and reducing the negative impact of negative externalities in the district.

The actual creation of new districts (counties) should be carried out by adopting acts on creation of such districts in accordance with the law, which provides for the procedure for the formation and change of districts. The Verkhovna Rada of Ukraine should adopt such acts.

Today, the Ministry of Regional Development and the Ministry of Health of Ukraine initiated the process of creating hospital districts, the territories of which may be taken as the basis of future administrative districts. In my opinion, this is the second “bottleneck” in the process of a new administrative-territorial system’s creation. Since, in order to ensure the development of community territories within the region, it is not possible to form a subregional level solely based on the organization of the effective provision of a particular service or services. As in the case of communities, here it would be necessary to apply the principle of making economically and socially effective decisions to ensure the development of territories and rational management of the provision of services beyond the competence of the administrative-territorial units of the basic level.

The estimated number of subregional administrative units is 95-105 (taking into account the occupied territories) according to the results of modeling conducted by the experts of the Minregion based on forecasting of the creation of hospital districts within the regions.

Regarding the revision of the territorial basis of the regional level, in the long term we can state the following. A slight change in the boundaries of the regions for the optimization of the provision of social services is possible, as well as elimination of inconsistencies of the principle of the absence of enclaves and exclaves in the formation of administrative-territorial units (for example, the city of Slavutych). The division of powers between local governments at

different levels and executive authorities should be carried out in the process of formation of the spatial basis of public authority.

The second task is to determine the list of powers to be transferred on the principle of subsidiarity to the appropriate level of government and to form the necessary legal framework for the transfer of these powers.

Let us now talk about the expediency of transferring certain functions of state power in Ukraine to a lower level. We should mention that today there is no universal model of decentralization in the world that could offer a list of powers and resources that it would be expedient to direct to certain levels of territorial power in order to achieve maximum economic and social effect, including ensuring the provision of quality and affordable public services to citizens.

The principle of subsidiarity is a reflection of the political concept, according to which the mechanism of management of social development should be built "from the bottom up". All tasks that can be effectively addressed locally should be within the competence of local authorities, as the closest authorities to the population. The realization of these tasks should be transferred to the competence of higher (and more distant from citizens) levels of government - regional, national and, finally, supranational (supra state) only in the absence of such a possibility.

Moreover, here is the third "bottleneck" of decentralization. Separately, I want to highlight the basic level in this issue. In order for the central executive bodies of government to form the list of powers that should be delegated to lower levels, they should understand the ability of the communities to provide human and financial resources for the quality provision of these services. The Table 2 is given below. It presents proposals made with the relevant working groups on decentralization based on sectoral central executive bodies of government. These proposals are about the basic powers of local self-government bodies and local state administrations accordingly, which would be expedient to transfer to the appropriate levels of territorial power (within the framework of the current Constitution of Ukraine).

As the process of creating territorial communities in Ukraine is based on the principle of voluntariness and as communities not always meet the prospective plans for the formation of territorial communities of regions, newly formed communities are sometimes small, have no appropriate specialists and lack the human resources to provide quality services.

It should be noted regarding the financing of powers delegated by the state. The lack of funding in recent years is frequent. It causes the "sucking up" of local budgets' resources in order to ensure the implementation of delegated authorities at times by reducing the quality of services, which are the own authority of the communities.

The third task is to formulate service delivery standards and to determine the amount of resources needed to finance the powers.

It should be noted that, as of today, this task has turned out to be the most difficult. Communities have been empowered, for example, in education and primary medicine; communities have received funds to fulfill these powers. However, the relevant ministries do not resolve the issue of standards for providing these services. This leads, first, to the fact that local governments are not responsible for the production and provision of certain public services of some quality, although they receive sources of financing. The presence of schools with small number of pupils, low quality of educational services and excessive costs of organizing such services in rural communities is a striking example of this issue. For example, 60% of elementary schools in Ternopil region have 10 full-time students and 33% of secondary schools have with less than 40 children. At the same time, the cost per student in rural areas is sometimes more than 40-50 thousand hryvnia per year.

The approval of standards for financial provision of educational services is the only rational way out of this situation. It will give impetus to communities to optimize the school network, to establish base schools and to use financial resources more effectively in order to provide educational services.

Nevertheless, the lack of standards for public services is not the only problem. In recent years, delegated powers in Ukraine are not always fully provided (Rusin, 2013, p. 13). It negatively affects the quality of public services and leads to additional costs from own revenues that could be directed to local development. At the same time, local self-government should be interested in delegation of powers to it, as it is, firstly, connected with additional financing from the state (Saffron, 2016, pp 52-55), and secondly, brings services closer to the person, which is the goal of decentralization. However, delegation of certain state authorities to local governments is not a complete dismissal of state authorities from the responsibility to exercise delegated powers, since these powers continue to maintain their national significance.

The President of Ukraine and the Government declared the need for reforms, and the Ministry of Finance of Ukraine performed this task. Therefore, the Verkhovna Rada of Ukraine adopted amendments to the Budget Code of Ukraine on the reform of inter-budgetary relations in December 2014. They are aimed at building a new model of financial provision of local budgets and new approaches in the interrelations of the state budget with local budgets.

Consequently, the reform of the budgetary system in the context of decentralization has begun since 2015. In the first two years of the reform,

it was possible to implement decentralization of financial resources (fiscal decentralization) and to achieve several important results:

- the rights of local authorities have been extended; full budgetary autonomy has been given to them in the issue of the formation and implementation of local budgets;
- the redistribution of financial resources is ensured in favor of local budgets through the transfer of income from the state budget, the introduction of new types of payments and the expansion of the tax base of the existing ones;
- a new mechanism of budgetary regulation and equalization is introduced - the system of balancing incomes and expenditures of local budgets is replaced by a more progressive system - equalization of fiscal capacity;
- a new transfer policy has been introduced, including in terms of changing the financing mechanism (subvention from the state budget) in two main areas of the budget sphere - education and health care;
- the provisions are provided on encouraging communities to unite, to form capable communities and on transitioning to the state budget interrelations with all local budgets.

The strengthening of the financial capacity of local budgets is the most significant result of the reform.

The results of the implementation of local budgets for 2015-2016 have confirmed that local authorities have gained a real additional resource both for the fulfillment of powers that are functions of the state and transferred to them for execution, and for financing self-government powers. The growth of the general fund resource of local budgets in 2015 against 2014 amounted to 29.6 billion UAH or 42.1%, in 2016 against 2015 - 48.4 billion UAH or 49.3%.

By the end of 2016, three hundred sixty-six united territorial communities, which have a relationship with the state budget, have been formed and are currently functioning.

The positive dynamics is maintained in the current year. Moreover, the financial results of the increase in revenues of the united territorial communities significantly outstrip the performance of other communities. We present the analysis of the financial capacity of 159 united territorial communities established in 2015, which have already received direct inter-budgetary relations with the State budget in 2016. It shows that communities with a larger number of inhabitants have a greater financial potential than those with a population of less than 5,000. The small communities, where there are budget-setting enterprises and powerful enterprises of the real economy sector, are the exception.

Small and medium-sized businesses are actively developing in large communities, because they have a sufficiently skilled workforce, a strong local

market for goods and services, and better prospects for sustainable community development. Large communities also have greater tax capacity and more opportunities to ensure proper maintenance of infrastructure, the functioning of institutions and utilities. Besides, their local self-government bodies can provide high-quality public and communal services.

The Ministry of Finance of Ukraine identified the following tasks to be implemented at the next stage of the reform (2017-2020) in terms of local budgets:

- the improvement of inter-budgetary relations and the introduction of mechanisms of effective management of financial resources;
- the formation of service delivery standards and the determination of the amount of resources required to finance the authority.

This reflects the following "bottleneck" of decentralization processes that have taken place in recent years in Ukraine. Communities received significant additional resources and state subventions in 2015 for their own and delegated authorities. However, service delivery standards and the amount of resources needed to fund these authorities are scheduled to be identified over the next four years.

The main tasks in the implementation of mechanisms of the effective management of financial resources should include:

1. Strengthening the tax base of local self-government bodies through:
- the expansion of the tax base for income from local self-government bodies, primarily local taxes and fees;
- extending the powers of local self-government bodies in administering and controlling the payment of local taxes and duties and regulating rates of local taxes and fees.

2. The creation of a stimulating system of equalizing the fiscal capacity of local budgets by matching financial resources and spending powers as well as reducing disparities between local budgets.

3. The improvement of inter-budgetary relations by:
- the transition to the direct inter-budgetary relations of the state budget with all local budgets;
- the introduction of mechanisms of effective management of financial resources at the local level through the application of the program-target method of budgeting at the local level and the introduction of medium-term planning at the level of local budgets.

4. Ensuring the publicity and transparency of the budget process through public presentation of information about budget and public involvement to the decision-making process regarding the use of local budgets.

The creation of a safe and comfortable environment for the life of each person in Ukraine is defined as the ultimate strategic goal of reform. This goal can only be achieved through the construction of an effective system of government.

Achieving this goal is possible by conducting a full-fledged reform in the state, which has the following tasks:

1. The effective distribution of powers (competences):

- to ensure local self-government of the basic level with real powers based on the principle of subsidiarity, which will ensure the provision of public services efficiently and as closely to the citizen as possible;

- to determine the list of powers of local government bodies of the district and regional level based on the results of public discussion, the allocation of the district and regional councils by their own executive bodies;

- to establish complete and exclusive powers of local self-government bodies. Such powers cannot be canceled or restricted by state authorities of any level, unless provided for by law;

- to introduce transparent mechanisms of administrative oversight of public authorities in relation to local self-government bodies that do not contradict the principles of the European Charter of Local Self-Government and will not block the activities of local self-government bodies in case of disputable issues;

- to regulate the issue of holding local referendums in law.

- to ensure adoption at the 1st session of the Verkhovna Rada of the 8 convocation of the necessary amendments to the Budget, Tax Codes, and other laws that will ensure adequate resource support for local self-government.

2. Proper local government resource provision:

- to ensure the adoption of the necessary amendments to the Budget, Tax Codes, and other laws that will ensure adequate resource support for local self-government at the 1st session of the Verkhovna Rada of the 8 convocation;

- to allocate local self-government bodies with financial resources in accordance with the authority, the list of which is established by law; to ensure financial autonomy of local budgets on the principles of decentralization in accordance with the new Budget and Tax Codes;

- to consolidate sustainable sources of income for local budgets and to expand the revenue base of local budgets. At the same time, it is necessary to ensure the definition of uniform standards for deductions from the personal income tax and income tax for private sector entities for each type of local budget;

- to provide the city of Kyiv with an appropriate financial resource for performing capital functions;

- to ensure the payment of personal income tax solely at the place where the employee works;

- to empower local governments to serve local budgets on incomes and expenditures of the special fund in banking institutions selected through open procurement procedures;

- to establish clear deadlines (up to 5 days) for passing local government budget orders in the system of the State Treasury and to increase the responsibility of the bodies and officials of the State Treasury for violation of terms;

- to reform the property tax in accordance with European practice (enrollment in local budgets);

- to give local governments the right to determine the rates and tax base, taking into account the socio-economic status of the respective territory and the limitations established by law;

- to introduce a horizontal system of equalization of the capacity of local budgets on incomes, which will allow not to remove all over-planned incomes from affluent communities, and at the same time to go away from the full maintenance of less affluent communities and to stimulate them for development;

- to implement formulas for sector transfers in accordance with updated standards for providing services and financial standards for their provision to one recipient of services;

- to simplify mechanisms of local governments' access to credit resources;

- to ensure the possibility of taking long-term budget commitments on public-private partnership projects aimed at development projects related to the development, restoration and modernization of the infrastructure.

3. The formation of self-sufficient communities:

- to ensure the principle that there is no more than one self-governing body of the same level and the widespread jurisdiction of local self-government at the level of territorial communities in one territory;

- to determine the criteria for the formation of the administrative-territorial units of the basic level (communities) taking into account their financial and financial capacity to ensure accessibility of the main public services provided on the territory of the community (in particular, the time of arrival of emergency medical care and fire assistance in urgent cases should not exceed 30 minutes);

- to introduce changes in the territorial boundaries of the communities solely with the prior consideration of the relevant local communities' opinion;

- territorial organization of power at the local level;

- to make amendments to the Constitution of Ukraine, which will provide the legal basis for approval of a number of legislative acts necessary for the implementation of the reform of local self-government and territorial organization of power;

- to ensure de-concentration and decentralization of powers in accordance with the Concept for Local Self-Government Reform and Territorial Organization of Power in Ukraine and the European Charter of Local Self-Government; to reorganize local state administrations into prefectural bodies;

- to reform the system of territorial subdivisions of central executive authorities and local state administrations; to eliminate duplication of powers between them and local self-government bodies;

- to ensure the professionalism and political neutrality of local government executive offices through transparent competitive procedures for the selection of heads and employees of these bodies;

- to improve the instruments of the State Fund for Regional Development (the SFRD): to direct all capital transfers to the regions only through the SFRD; to ensure funding through the SFRD development projects (including co-operation projects and voluntary united territorial communities), rather than infrastructure's objects. The distribution of the SFRR expenditures between the regions of Ukraine should be provided as an addition to the state budget.

During the assessment of the institutional environment of decentralization's introduction, it was concluded that the monocentric (centralized) government, which was formed in Ukraine due to the Soviet past, can no longer flexibly and effectively manage regional processes today. The central government should give some powers to regions. Ukraine should become not only decentralized, but also polycentric, as European states, where power is divided between public authorities, business and civil society. However, a teleology - taking into account the features of the territory and realization of local interests remains constant for each individual state that makes decentralization its purpose. However, certain features must be defined in the framework of its invariance. First of all, the model of decentralization, its goals and priorities. Optimization, rationalization and democratization of public administration are undoubtedly the most important goals of decentralization in Ukraine. Such goals are formulated in the Concept of Decentralization. It is determined that its goal is to "... identify the directions, mechanisms and timing of the formation of effective local self-government and territorial organization of power for creating and maintaining valuable living environment for citizens, providing high-quality and affordable public services, establishing institutions of direct democracy, satisfying the interests of citizens in all spheres of life in the respective territory, harmonizing the interests of the state and territorial communities" (Law No. 280/97-VR, 1997).

The Ukrainian Concept of Decentralization is based on institutional changes that envisage, in particular:

• liquidation of district state administrations and transfer of their functions and powers to respective rayon councils (their executive committees);

• transfer of functions and powers of regional state administrations in the sphere of socio-economic and cultural development of territories to the respective regional councils (their executive committees);

• formation of executive bodies of regional and district councils on the basis of structural subdivisions of relevant local state administrations;

• a clear division of competences and powers between local government bodies and executive authorities, as well as local government bodies of different territorial levels;

• increasing the role of bodies of self-organization of the population in solving issues related to the provision of public services to the population.

It is also important to create a system of balance of autonomy and responsibility between the state and communities in providing public services to the population. It is a complex process and it depends on many country's internal and external factors that influence also on the speed of changes in it.

It should be noted that it is extremely important to evaluate the starting conditions that characterize the state and communities, at the beginning of the implementation of reform. The creation of a new system of relations between them starts from these starting conditions. The "strength" of the state is determined by its institutional capacity to create favorable conditions for economic development. These conditions are macroeconomic stability, transparency of rules and procedures for doing business, an effective mechanism for solving problems arising in the relations between different economic entities, fair (competitive) access to resources.

The high institutional capacity of the state can reduce the probability of internal conflicts (between communities and within communities) and minimize the potentially negative external challenges (transition to an open economy and the problem of territories associated with the need to update their economic base). This basis distributes trust to communities, which is transformed into strict compliance with state decisions when adapted at the community level. In turn, trust in the main institutional structure allows strengthening further community-based problem solving.

On the contrary, the weakness of the state stimulates "strong" communities (with relatively high economic potential, influential business groups that form stable informal rules and connections within the communities) to seek rent not only in their own territory, but also to receive it from the state. Thereby they violate the principles of justice in the country as a whole, adversely affecting its economic development. A weak state is not able to destroy such a stability

in relations. "Weak" communities, especially shredded communities, lose the opportunity to be heard at all by the "weak" state. Their socioeconomic situation is entirely dependent on the volumes of resources that the "weak" state can sent them. Own weakness, along with a lack of confidence in the "weak" state, without any alternative pushes them to the periphery of development.

The development of any territory (country, region, community) is always deterministic in time and space. Each of these territories is different from other in history, heritage, political problems, other characteristics that influence the definition of the trajectory of economic growth, social perspectives, etc. The size of the country, the level of development (political, economic, cultural, etc.) of other countries surrounding it also have a significant impact on development. This variation determines the circumstances and peculiarities that change all the time both between countries and within countries. It determines the nature, method, directions of the reforms and their speed. A transformation model that has been successfully implemented in a certain time in a particular country is unique. That is why hopes for its repetition with similar results in other circumstances, time, and country are unfounded.

Conclusions

Consequently, the decentralization, on the one hand, should contribute to strengthening the role and capacity of communities in forming the development environment. This is because the state cannot effectively create conditions, such as reducing transaction costs in the territory, favorable microeconomic conditions, and rapid response to solving problems arising in the business process. On the other hand, the decentralization requires a strong state, which is the key to a balanced relationship between it and strong communities in the strategic perspective. That is why strengthening the state itself ahead of the decentralization processes should be the first step. Such state should establish clear and transparent rules for the economic agents that make up the basis of dynamic development. In addition, the rapid pace of the implementation of the reform of local self-government and territorial organization of governance in Ukraine predetermines the need to form a legal framework as soon as possible. This legal framework will make it possible to complete the formation of the territorial basis of the basic and subregional levels for the possibility of further redistribution and consolidation of powers between the central, regional, subregional and basic levels.

The need to develop and approve standards for providing services in the fields of education, culture, social protection, health care, administrative services, infrastructure, land relations and planning of territories remains a separate issue. At the same time, the financial support of the powers delegated by the state should be calculated and secured in such a way so that local self-

government bodies could organize the provision of high-quality services in the cities, including providing the necessary infrastructure on the local level.

Further research should reveal the question of the formation of a conceptual model of decentralization in the context of local self-government reform.

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Резюме

В статье раскрыты процессы становления и развития децентрализации власти и управления в Украине. Показано, что децентрализация должна, с одной стороны, способствовать усилению роли и потенциала общин в формировании среды развития, чего не может эффективно создать государство - уменьшение транзакционных издержек на территории, благоприятные микроэкономические условия, быстрая реакция по решению возникающих в процессе деятельности бизнеса проблемных

вопросов; с другой - децентрализация требует сильного государства, что является залогом сбалансированных взаимоотношений между ней и сильными общинами в долгосрочном измерении. Обосновано, что быстрые темпы внедрения реформы местного самоуправления и территориальной организации власти в Украине обусловливают необходимость в кратчайшие сроки сформировать правовое поле, что позволит завершить формирование территориальной основы базового и субрегионального уровней для возможности дальнейшего перераспределения и закреплению полномочий между центральным, региональным, субрегиональным и базовым уровнями. Отдельным вопросом остается необходимость разработки и утверждения стандартов предоставления услуг в области образования, культуры, социальной защиты, здравоохранения, административных услуг, инфраструктуры, земельных отношений и планирования территорий. При этом финансовое обеспечение делегированных государством полномочий должно быть рассчитано и закреплено таким образом, чтобы органы местного самоуправления могли организовать предоставление качественных услуг на местах, в том числе обеспечив необходимую инфраструктуру на местах.

Ключевые слова: *децентрализация власти, местное самоуправление, распределение полномочий по принципу субсидиарности, финансовая децентрализация.*

Streszczenie

W artykule przedstawiono procesy inicjacji i rozwoju decentralizacji władzy i zarządzania na Ukrainie. Pokazano, że decentralizacja powinna z jednej strony sprzyjać zwiększeniu roli i potencjału wspólnot w procesie formowania środowiska rozwoju, czego państwo nie może uczynić w sposób efektywny – zmniejszenie kosztów transakcyjnych na danym terytorium, korzystne warunki mikroekonomiczne, szybka reakcja w celu rozwiązania kwestii problemowych występujących w toku aktywności biznesowej; z drugiej strony – decentralizacja wymaga silnego państwa, które w długim okresie byłoby gwarantem zbalansowanych stosunków wzajemnych między tymże oraz silnymi wspólnotami. Uzasadniono, że szybkie tempo wdrożenia reformy samorządu terytorialnego i władzy terytorialnej na Ukrainie warunkuje konieczność ukształtowania w krótkim czasie przestrzeni prawnej, która pozwoli zakończyć formowanie podstawy terytorialnej na poziomie bazowym i subregionalnym, co pozwoli na dalszy podział kompetencji i jego utrwalenie między poziomami centralnym, regionalnym, subregionalnym oraz bazowym. Osobnym problemem pozostaje konieczność opracowania i zatwierdzenia standardów świadczenia

usług w sferze edukacji, kultury, ochrony socjalnej, ochrony zdrowia, usług administracyjnych, infrastruktury, nieruchomości i planowania przestrzennego. Przy czym finansowe zabezpieczenie pełnomocnictw delegowanych przez państwo powinno być oszacowane i zapewnione w ten sposób, aby organy samorządu terytorialnego mogły organizować świadczenie wysokiej jakości usług na miejscu, zabezpieczając w tym celu niezbędną infrastrukturę lokalną.

Słowa kluczowe: *decentralizacja władzy, samorząd terytorialny, podział pełnomocnictw według zasady subsydiarności, decentralizacja finansowa*

Анотація

В статті розкрито процеси становлення і розвитку децентралізації влади та управління в Україні. Показано, що децентралізація має, з одного боку, сприяти посиленню ролі і здатності громад у формуванні середовища розвитку, чого не може ефективно створити держава – зменшення транзакційних витрат на території, сприятливе мікроекономічні умови, швидка реакція по вирішенню виникаючих у процесі діяльності бізнесу проблемних питань; з іншого – що децентралізація вимагає сильної держави, що є запорукою збалансованих взаємовідносин між нею і сильними громадами у довгостроковому вимірі. Обгрунтовано, що швидкі темпи впровадження реформи місцевого самоврядування та територіальної організацій влади в Україні зумовлюють необхідність в найкоротший термін сформувати правове поле, що дозволить завершити формування територіальної основи базового та субрегіонального рівнів для можливості подальшого перерозподілу та закріпленню повноважень між центральним, регіональним, субрегіональним та базовим рівнями. Доведено, що фінансове забезпечення делегованих державою повноважень має бути розраховано і закріплено таким чином, щоби органи місцевого самоврядування могли організувати надання якісних послуг на містах, в тому числі забезпечивши необхідну інфраструктуру на місцях. Окремим питанням лишається необхідність розробки та затвердження стандартів надання послуг в галузях освіти, культури, соціального захисту, охорони здоров'я, адміністративних послуг, інфраструктури, земельних відносин та планування територій. При цьому фінансове забезпечення делегованих державою повноважень має бути розраховано і закріплено таким чином, щоби органи місцевого самоврядування могли організувати надання якісних послуг на містах, в тому числі забезпечивши необхідну інфраструктуру на місцях.

Ключові слова: *децентралізація влади, місцеве самоврядування, розподіл повноважень за принципом субсидіарності, фінансова децентралізація.*

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LOCAL GOVERNMENT IN POLAND IN THE PROCESS OF SYSTEMATIC TRANSFORMATION

Summary

Transformation of the Polish political system ignited in 1989 has contributed over the years to the creation of the state of law, which rooted its system in the principles of democracy and respect for fundamental human rights and freedoms. The 1990s was a decade of the twentieth century, a period of dynamic change, where the introduction of local government had been implemented. It is today one of the cornerstones of the system of the Third Polish Republic. Formed in such way, the three-dimensional system of local government is the result of a long-term process. The restructuring of Polish political system has been managed for twenty-eight years so far. It must be remembered that the process of forming local government in Poland is not accomplished, yet.

Key words: *local government, public administration, systemic transformation, Poland*

1. Introduction

Transformation of the Polish political system ignited in 1989 has contributed over the years to the creation of the state of law, which rooted its system in the principles of democracy and respect for fundamental human rights and freedoms. The 1990s was a decade of the twentieth century, a period of dynamic change, where the introduction of local government had been implemented. It is today one of the cornerstones of the system of the Third Polish Republic.

Local government is a separate structure within the state. It is the relationship of local group of people established under the law, appointed to exercise power of public administration, equipped with financial resources to carry out the tasks imposed on them. It is therefore a form of political system of decentralized public administration that is executing tasks on their own responsibility assigned to them by the Commune Self-Government Act (Tarno, Sieniuć, Sulimierski, Wyporska, 2002, pp. 20).

2. Short history of local government in Poland

Local government in Poland has a long tradition dating back to the times when Poland was partitioned (1795-1918). Its dynamic growth peaked during the Second Polish Republic (1918-1945). In the postwar period the natural development of local government had been vehemently broken off (1945-1989). The year 1989 brought many changes into the political system, including the restitution of local government. The reforms commenced as a package of bills in 1990 restored the phenomenon of local government in Poland. On March 8 1990, the Polish Sejm passed an amendment to the Constitution, stating in Article. 5, that “The Republic of Poland guarantees the participation of local government in exercising the power”, and complement of a new chapter on self-government. That same day two bills of fundamental importance for the functioning of Polish local government were passed. These were Local Government Act and Act on Elections to Municipal and County Councils and Provincial Assemblies. The first one established legal basis for local government, while the latter allowed to prepare and hold elections to newly emerging municipal councils. The reformers’ effort that time culminated at the municipal elections held on May 27 1990. It was for the first time ever that fully democratic elections for municipal councils were held. In fact, this circumstance initiated the process of building a new model of the state in which municipalities have begun to play a significant role in the political system (Słobodzien, 2006, pp. 48-49).

The current Constitution of 1997 states that “the constitution of the Republic shall ensure the decentralization of public power” (Art. 15 Paragraph. 2), and points out that “Local government is involved in the exercise of public authority” (Art. 16 Paragraph 2). Furthermore, it specifies that “by the virtue of the law all the residents of a municipality, county or voivodeship are to be referred as the self-government community”(art. 16 Paragraph. 1). The whole Chapter VII of the Constitution was devoted to issues related to local government (art. 163-172) (Izdebski, 2006, pp. 52).

According to the statements, it was proved that the local government should work on all levels of basic territorial division. What is more, it should execute a major part of public tasks. Under the auspices of a new Constitution the second phase of local government reform had begun. It aimed to introduce two higher ranks of local government units, specifically, the county and the voivodeship. On June 5 1998 the Acts on county government, voivodeship self-government and the government administration in the voivodeship had been accepted. Under these Acts that were promulgated on January 1 1999, a three-leveled territorial division was finally established: municipalities (2479), counties (379, including 314 rural counties and 65 cities with county rights) and voivodeship regions (16).

The provisions of the Constitution that refer to local government in Poland are being followed by three basic rules. These are:

• principle of subsidiarity – entities of local government do perform public tasks aimed at satisfying the needs of their citizens; county and voivodship as the authorities operating on a larger territory are ancillary to the municipalities; these bodies also perform some tasks of the government administration, if this is due to the legitimate needs of the state;

• principle of autonomy – local governments are autonomous and are promised to retain their legal protection; these units are independent of the state power and of each other;

• the principle of the presumption of properties of local government – where the provision of the Act does not explicitly stipulate the properties to deal with a certain matter important for the government, the case falls within the authority of local government (Tarno, Sieniuć, Sulimierski, Wyporska, 2002, pp. 23-26).

An important change occurred when the Act of June 20, 2002 on direct elections of the head of municipality, the mayor and the president of the city was put into effect. The principle of direct elections of a single executive body has been introduced at the commune level. Previously, the municipalities had had to deal with the collegiate executive body (the Board) elected indirectly by a body of the municipality council (Antkowiak, 2011, pp. 155-174).

3. System of local government in Poland

The term municipality should be comprehended as a self-governing community and its relevant territory. Community means that it belongs to the municipality under the applicable law. In this case, the municipality is legally organized territorial group of residents, defined in the Act as a self-governed community, separated from the state through legal personality. County should also be rendered as the local self-governing community with its relevant territory. Hence, it is legally settled territorial area of people living in there. Likewise, it has a legal personality and it is isolated from both the state and other local government units. However, voivodeship refers both to the local government (regional self-governing community) and the largest constituent of basic territorial division of the country that exercises government's administration. The elements constitute voivodeship's self- government are demarcated by a regional community and a certain area of the country. The voivodeship has a legal personality, which distinguishes it from the state and from other local government units, and a residence membership is granted in accordance with the national law. The right and obligation of the local government is to meet the needs of the local community through the enhancement of public amenity values.

Services provided from central level are not always parallel to the expectations of the community, and their unified nature does not continuously acknowledge the fact that the preservation of identity of local or regional communities is a must in order to keep indigenous and unique customs and traditions alive. The division of responsibilities and distribution of competences between central government and local government aims at the realization of these tasks. Such hierarchy can properly and effectively carry them out (Antkowiak, 2011, pp. 42).

Supervision of local government in Poland is based only on the Article 171, paragraph 1 of the Polish Constitution, which relies on the criterion of legitimacy, in other words on the compliance with the law. No provision for any exceptions to this rule had been initiated, although initially they had tried to use the criterion of expediency in case of implementation of tasks assigned to municipalities, for instance. It is now also assumed that the supervisory authorities that control the activities of local government in the municipality, county or voivodeship areas are as follow: The Prime Minister, voivodeship governors and regional audit chambers. It is also worth mentioning that there is a possibility of cooperation of the local government organizational units. Such collaboration can take various forms, depending on the purpose for which certain entities want to liaise. If the purpose of such actions is to do the task, the cooperation may take the form of inter-municipality or inter-county agreements, often resembling the associations. If only municipalities, counties or the voivodeships would like to execute other actions than the ones within the public interest in accordance with the laws of local self-government, they may cooperate accordingly as part of the national or international associations. It means that this is necessary to pick freely certain forms of cooperation and formulate them and phase them out again, freely (Dolnicki, 2006, pp. 374-385).

3.1. Municipality

The basic entity of local government in Poland is the municipality, which should meet the expectations of the local citizens and act for the sake of the self-government community, created by the local people in its territory. The commune shall perform public tasks on its own behalf and on its own responsibility. It has a legal personality and its independence is subject to judicial protection. There is no doubt that it is also the closest to the local resident. It is unquestionable that at the level of the community all its inhabitants can do most of their official errands related to the functioning of the public administration. The Local Government Act of 1990 indicates that there may be three types of municipalities: rural, urban, and rural-urban. This distinction is primarily formal in nature, giving a

village or a locality the city status. This peculiarity triggers different auxiliary units operating in the urban municipality and the rural one. Diverse are also the names of some municipal authorities etc. The occurrence of separation in municipalities of a special character is also allowed. This mainly applies to health and spa resort municipalities. Creating, merging, splitting and removing of municipalities, demarcating their borders, their names and places of residence is regulated by the ordinance of the Council of Ministers. The issue of such regulation requires public inquiry of interested community councils and other bodies, and carrying out consultations with the residents. Details of the system of the municipality is included in the statute adopted by the municipal council. The range of municipality tasks to maintain and execute public affairs in the territory of the local community have been legally established as the scope of municipality's activities. It also does some tasks that have not been reserved by the Constitution or acts addressed to other public authorities. The tasks of the municipality must satisfy the collective needs of the community. These tasks can be divided into certain categories: technical infrastructure of the municipality (municipal roads, streets, bridges, squares, water supply, sewerage, disposal, communal and industrial wastewater clearance and treatment, the maintenance of cleanliness, disposal of municipal waste; the supply of electricity and heat, municipal housing, local public transportation, markets and market halls, municipal facilities, utilities as well as administrative facilities); the social infrastructure (health, welfare, education, culture, physical education); the public order and security (the organization of traffic, public order, fire protection, safety, sanitation); the spatial and ecological order (planning, cropland management, environmental protection). Furthermore, the municipality performs some tasks assigned by the government administration, which come from another administrative authority. The municipality does these tasks after safeguarding its financial resources endowed by the grantor. The municipality may also voluntarily execute the tasks assigned, based on an agreement with the competent organ of the government administration. Residents take the decision directly in the electoral vote and the referendum, as well as through the municipal authorities. Decision making and controlling body is the municipal council (city council in cities), elected for a term of four years. Likewise, the executive body is elected in direct elections on a four-year term, which is the head of municipality (the mayor or the president, depending on the size of the city), respectively. The municipal council consists of councilors: 15 councilors in municipalities up to 20 thousand residents; 21 councilors in municipalities up to 50 thousand; 23 councilors in municipalities up to 100 thousand; 25 councilors in municipalities up to 200 thousand; three additional councilors for each 100 thousand of the residents, but no more than

45 councilors. The scope of activities of the municipal council covers the most important issues of local communities and the functioning of its organs and its subordinate entities. The municipal council elects out of its members a chairman and from one to three vice-presidents. The Chairman shall summon a session of the municipal council and ought to organize its work. He is to conduct its discussions. The Council meets in sessions (ordinary or extraordinary). Council appoints committees, and the field of their activities and the composition depends essentially on the council's recognition. Legislative body may appoint the standing committees, the one of which is an obligatory - the audit committee. The one-man executive body of the municipality is the head of municipality (the mayor, the city president) (Leoński, 2006, pp. 106-130).

In the municipality, where the seat of the local authorities is placed in the city situated on the territory of the municipality, the executive body power is vested in the mayor. In the cities over 100 thousand residents the executive body is exercised by the president. This principle has also applied to towns until the date of the act having been implemented where the mayor had previously played the role of the administrative, management and supervisory body. Currently, he is elected by universal, equal, direct, secret ballot. You have the right to be elected once you will become a 25-year old Polish citizen and at the same time, you can become an elected member of a municipal council. The term of the head of municipality or the mayor begins on the date of the municipal council appointment or when the municipal council is to appoint him likewise. It ends with the expiry of the municipal council mandate. Mayor performs the resolutions of the municipal council and municipal tasks assigned by the acts of law. The duties of the mayor include the preparation of draft resolutions of the council and the way of executing them, maintenance of the municipal properties, implementation of the budget, hiring and firing his deputies, the chairmen of municipal organizational units and fulfilling the tasks delegated by the government administration. He leads the current affairs of the community and represents it outside. He is also responsible for announcing and implementing the contingency plan in case of possible natural calamities. While fulfilling community's very own tasks the mayor is supervised only by the municipality council, which decides on the directions of his activity. When executing central government's assignments, he is controlled by the head of the voivodeship. The mayor performs his duties with the assistance of the municipal office, of which he is the chairman. He shall, by way of regulation, draw up detailed administrative regulations of the office, specifying its functioning and organizational structure. The head of municipality can also appoint and dismiss his deputies and determine their number. Yet, the number cannot be greater

than: 1 in municipalities up to 20 thousand residents; 2 in municipalities up to 100 thousand residents; 3 in municipalities up to 200 thousand residents; 4 in municipalities of more than 200 thousand residents. The municipal referendum is a direct way of exercising power by the people on important issues for the community. Only the local community residents entitled to vote can participate in the referendum. There are obligatory and facultative referendums. The referendum includes the obligatory self-taxation of the citizens for public purposes and the eviction of the municipal council or the head of municipality (the mayor, the president) before the expiry of the term-in-office. The initiative in this case belongs to the local citizens, and a dismissal of the mayor also to the council of the municipality (Leoński, 2006, pp. 106-150).

As far as the optional referendum is concerned the people of the local community are expressing their will through voting and they exhibit their ways of settling the issues related to this community, within their range of tasks and competences. The referendum is valid if it was attended by at least 30% of those eligible to vote, except for voting on the sacking of the authority elected in direct elections in example: the municipal council and mayor or the head of municipality. In this case, the election turnout must be at least 3/5 of attendance, in which the body had been elected. The result of the referendum is conclusive if one of the solutions being submitted to referendum received more than a half of the valid votes, while in case of the self-taxation is - at least 2/3 of the valid votes. The Act on Municipal Self-Government allows the consultation between the residents of the community in the events specified in the binding legal act, and other significant issues for the community. They can be mandatory or optional. The obligatory are when they relate precisely to creation, merging, splitting and elimination of municipalities, establishing their names and boundary changes. The optional consultation may be conducted in any other matter important for the municipality. The municipality may be divided into the auxiliary units, such as village councils in rural areas, districts and housing estates in the cities. Auxiliary unit can also be placed in the municipality of the city. The rules for creating auxiliary units is established by the statute of the municipality. The organization and the range of activity of the municipal council is determined independently in a separate statute. Legislative body of the rural administrative unit is the village gathering, and the executive is the village leader. The village leader supports the village council elected by and out of the inhabitants of the auxiliary entity. Legislative body of the housing estate is the council and executive body is the board headed by the chairman. The statute of the housing estate may determine that the legislative body of the housing estate is vested in the general assembly of their inhabitants (Nowacka, 2005, pp. 64-65).

3.2. County

The county is an indirect unit of the local government. The Act on County Self-Government establishes two categories of the counties. The first type refers to these counties, which include the entire territories of the bordering municipalities (a rural county), the second type of the counties is said to consist of the entire city areas (the city with the administrative rights of a county). When creating, joining, sharing or removing counties and determining their borders one should mention the necessity for making the county an area as homogeneous as it can be.

This means the settlement system of the region and special structure ought to remain integral with cultural, ethnic and territorial identity that help to fulfill and perform public tasks. This local government unit has just like the municipality, a legal personality, and its independence is under the protection of the law. The political system of the county is bound by its Statute. The county performs public tasks of a supra-municipal nature, such as: the technical infrastructure (the transport and public roads, the real estate management, the maintenance of county facilities and public facilities); the social infrastructure (public education, promotion and protection of health, social assistance, family policy, support for the disabled, culture and the cultural objects protection, physical education and tourism, tackling the unemployment issues, activation of the local labor market, consumer protection, promotion of the county, cooperation with NGOs organizations); the public order and security (public order and public safety, flood protection, fire prevention and other extraordinary threats to human lives and other health issues, defense, completing the tasks of the county's services, inspections and municipal guards); the spatial and ecological governance (geodesy, cartography and land registry, spatial planning and construction supervision, water management, agriculture, forestry and inland fisheries and lastly environmental protection).

The legislation may also define a ruling within the range of the county's tasks assigned by the government administration. It is, then, relevant to carry them out by the county. It performs statutory tasks on its own responsibility. At the request of the interested municipalities adopted by common accord with the county it may delegate its tasks under applicable law. Community makes decisions based on universal suffrage, through the elections and referendum or through the authorities of the county. The legislative and monitoring function is vested in the county council whereas the executive body is exercised by the county management board chaired by the Mayor elected by the deputies of the county. They are appointed for a four-year term of office (Leoński, 2008, pp. 194-196).

The jurisdiction of the county council includes: the organizational matters (the adoption of the Statute of the county; creation, transformation and removal of organizational units and equipping them with the property; adopting some resolutions to interact with other counties and municipalities, if it is necessary to allocate the assets); planning (passing the budget of the county); financial and property (adopting resolutions on the amount of taxes and levies within the applicable laws, and also adopting resolutions on matters with regard to county property matters); personal (election and dismissal of the county administration, appointment and dismissal of a secretary and a treasurer of the county at the request of the head); auditing (drafting of the orientations of the county administration and receiving reports on its activities, including financial activities; consideration of the report on the implementation of the budget and passing the resolution on granting or not granting discharge to the Management Board in this respect). The council consists of 15 councilors in the county up to 40 thousand inhabitants and 2 for each additional 20 thousand residents, but no more than 29 councilors. The county council elects from its members a chairman and one or two deputies. Statutory exclusive task of the chairman is to organize the work of the council and to conduct its sittings. The nature of work takes form of sessions and the council may appoint out of its members, the permanent or the ad hoc committees, which can do certain tasks are assigned by the council. The Management Board is the executive body of the county. The county Board consists of the governor as chairman, vice-chairman and other members (1-3), elected by the county council out of its members or from the outside of the council. The Board fulfills the county council's resolutions and county tasks defined by the law. The tasks of the Board include: the preparation of draft resolutions of the council; implementation of the resolutions of the council; the county's property maintenance; the execution of the county's budget; hiring and dismissing leaders of the organizational units of the county. The Board by executing the tasks of the county is subject only to the county council, which leads its activity. It performs tasks of the county with the help of the County Office, the heads of county services, inspections and municipal guards and organizational units of the county, which together form the county's complex administration. The head of the county organizes the work of the county board as its chairman, and the County Office as his manager. He is a direct superior for county employees and the managers of organizational units of the county, county services, inspections and municipal guards. He appoints and dismisses the heads of these units, and in consultation with the voivode he approves the fields of their activities and agrees on the operations taken by these units within the county's terrain. He also manages the contemporary issues of the county's concern and he represents it outside. A Chief Executive of the county

has the power to act on an ad hoc basis, in urgent cases, indispensable for the community. He also handles current issues directly related to health problems or life-threatening situations that are likely to cause considerable damage. In order to execute some tasks of the Chief Executive he exercises the authority over the county services, inspections and municipal guards. The county's security and order committee has been set up in order to safeguard duties related to public order and safety of the locals. The referendum is a way to govern the county directly on important issues. In the referendum county residents, eligible to vote may participate in the elections. In the referendum, the inhabitants through voting express their will regarding the community affairs (Leoński, 2008, pp. 196-204).

They also have their say in the various tasks and competences of the county, or while dismissing the county council. County law and the law on local referendum provide exclusive referendum on a dismissal of the county council before the end its term-in-office. The referendum may also be carried out in all other matters relating to the properties of the county. The completion of this kind of power is directly determined by the legislative body while executing a referendum on its own initiative. The architects of such activity can also be residents of the county entitled to vote. The referendum is valid only if attended by at least 30% of those eligible. In the case of overturning the county council, such ballot will be lawful with a voter turnout of at least 3/5, in which the body has been elected. The result of a referendum shall be considered successful if more than half of the votes of the citizens voting have been valid, and at least more than half of all eligible voters have given the same answer.

1.3. Voivodeship

Voivodeship is the third and the highest level of the administrative division of the state. The voivodeship government molds region's sustainable development, its goals and objectives and the manner of achieving them. Taking into account voivodeship programs in accordance with the Act, the following objectives are set for: cultivating, developing and shaping the national consciousness along with the locals' civic and cultural heritage; stimulating economic activity; improving the level of competitiveness and attractiveness of the region's economy; preservation of cultural and natural environment. Keeping the needs of future generations and the creation as well as maintenance of spatial order is also considered. Community self-governing authority takes decisions effectively by popular vote (referendum and elections) and through the authorities of the voivodeship. At the regional level, we have the voivodeship assembly, which is a decisive and supervisory authority and a five-member Voivodeship Board led by the Marshal. They are elected for a four-year term

of office. The voivodeship parliament undertakes the most important issues of a regional self-governing community and the functioning of its authorities. The members of this entity consist of 30 councilors in the 30 provinces that have up to 2 million inhabitants and 3 more councilors for additional 500 thousand residents. The voivodeship parliament elects out of its members a chairman and three deputies. The exclusive tasks of the voivodeship assembly include a drafting of the local law; the enactment of spatial planning; passing the budget of the voivodeship; the appointment and dismissal of the executiveboard and remuneration of the marshal and procurement procedures for the award of grants financed from the voivodeship budget. Sejmik as it is called, meets in sessions summoned by the Marshal as necessary, but not less frequently than once a quarter. The Voivodeship Board is the executive body of this region. The board consists of five members: the voivodship marshal as the chairman, one or two deputies and two other members. The marshal and the other board members may also be elected from outside of the viovodeship assembly. The executive board performs tasks not reserved for the voivodeship parliament and the local government units. The tasks of the board include, in particular: the execution of the voivodeship assembly resolutions; the property management of the region, the exercise of the shareholders' rights holding shares by the voivodeship authority; a bill preparation and the execution of the budget; the preparation of development strategy for the region, the spatial planning, regional programs and their implementation; the upkeep and cooperation with the regional local government structures in other countries as well as with the international regional associations; directing, coordinating and controlling the activities of provincial government departments, including the appointment and dismissal of managers and adopting organizational regulations of the Marshal Office. The Executive Board performs certain tasks with the help of the voivodeship marshal's office and their local government organizational units (Dolnicki 2012, pp. 146-160).

The Marshal organizes the work of the Voivodeship Executive Board as its chairman and the general manager of the Marshal's Office. He is also a superior of the marshal's office employees and the managers of voivodeship, and the local government organizational units. The marshal has the power to act on an ad hoc basis as well as in urgent cases. Indispensable for the community, he handles current issues directly related to health problems or life-threatening situations that are likely to cause considerable damage. The referendum in the region is a direct way of exercising power in the matters of great importance for the region. The residents of the voivodeship eligible to vote may take part in the referendum. An act on local referendum provides for the exclusive use of this institution while dismissing the voivodeship assembly before the end of its term. Regional

referendum may also be carried out in any case important for this area within the range of its tasks. The completion of this form of direct power is decided by the voivodeship parliament, if executing the referendum on its own initiative or the people of this constituency eligible to vote. It is valid only if it was attended by at least 30% of those entitled, and in the case of dismissal of the voivodeship assembly of the region - at least 3/5 of attendance, in which the body has been elected. The result of a referendum shall be considered successful if more than half of the votes of the citizens voting have been valid, and at least more than half of all eligible voters have given the same answer units (Dolnicki 2012, pp. 160-171).

Opponents stress that no less than 15% of counties and several regions do not have the economic basis to be autonomous. The bigger a county or region is, the more money it has and the more powerful it is. If a unit is weak, it faces the threat of a permanent shortage of money, or receiving an income which is high enough only to pay for its own administration. The foundation of a large number of towns which have the rights of a county is often highly criticised, especially in areas where similar rural counties exist. In the future, this may lead to the total number of administrative units decreasing (Kowalski, 1999, pp. 79).

3. Summary

Formed in such way, the three-dimensional system of local government is the result of a long-term process. The restructuring of Polish political system has been managed for twenty-five years so far. Owing to this fact, a huge number of legal solutions were implemented. They had modified the original assumptions. It must be remembered that the process of forming local government in Poland is not accomplished, yet. The new challenges are still emerging ahead of us. Increasingly in Poland, it has been said that the role of metropolitan areas and large urban agglomerations ought to be strengthened. It also seems that the external actors systematically should be involved - in the policy making process of the governance at the local level. It is all about the inclusion of non-governmental organizations, business representatives and residents in the public decision-making process. So-called civil budgets, housing-estate councils or the borough councils are on the rise. Additionally, the public consultations take on a new meaning and represent higher standards than in the early 90s. There is no doubt that the local government has become a great springboard for social and civic values embodied in the civil society.

27 years of experience is a way to celebrate, however, we must remain vigilant. The institution of local government is not given once and for all, because it depends on the state whether it wishes to delegate some of its powers of social groups at the local level trusting that they are better in fulfilling tasks

of the public. Having a local government is a kind of privilege that should be nurtured. The local government should be catered for, sometimes fight for, but above all, its presence in Poland, significantly raises the quality of our democracy. There are often solutions and ideas in the field of self-government that are later duplicated at the central level. With such hope and support we are looking forward to a satisfying future so that we shall never stray from the chosen path opted in favor of local government twenty-five years ago.

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Streszczenie

Transformacja polskiego systemu politycznego w 1989 r. przyczyniła się do powstania państwa prawa, którego system ma swoje umocowanie zasadach

demokracji i poszanowania podstawowych praw oraz wolności człowieka. Lata dziewięćdziesiąte to okres dynamicznych zmian, podczas których wprowadzono samorząd lokalny. Jest to dziś jeden z kamieni węgielnych systemu III Rzeczypospolitej. Utworzona w ten sposób trójstopniowa struktura samorządu lokalnego jest wynikiem długotrwałego procesu. Restrukturyzacja polskiego systemu politycznego trwa od dwudziestu ośmiu lat. Należy pamiętać, że proces tworzenia samorządu lokalnego w Polsce nie został jeszcze zakończony.

Słowa kluczowe: *samorząd terytorialny, administracja publiczna, transformacja systemowa, Polska*

Резюме

Трансформация польской политической системы, начатая в 1989 году, способствовала на протяжении многих лет созданию правового государства, основанного на принципах демократии и уважения к фундаментальным правам и свободам человека. 1990-е годы – это период динамичных изменений, в ходе которого было введено местное самоуправление. Сегодня местное самоуправление является одним из краеугольных камней системы Третьей Польской Республики. Созданная таким образом трехуровневая система местного самоуправления является результатом долгосрочного процесса. Реорганизация польской политической системы продолжается уже двадцать восемь лет. Следует помнить, что процесс формирования местного самоуправления в Польше еще не завершен.

Ключевые слова: *местное самоуправление, государственное управление, системная трансформация, Польша*

Анотація

Трансформація польської політичної системи, розпочата в 1989 році, сприяла протягом багатьох років створенню правової держави, заснованої на принципах демократії і поваги до фундаментальних прав і свобод людини. 1990-ті роки стали періодом динамічних змін, в ході якого було введено місцеве самоврядування. Сьогодні місцеве самоврядування є одним із наріжних каменів системи Третьої Польської Республіки. Створена таким чином трирівнева система місцевого самоврядування є результатом довгострокового процесу. Реорганізація польської політичної системи триває вже двадцять вісім років. Слід пам›ятати, що процес формування місцевого самоврядування в Польщі ще не завершений.

Ключові слова: *місцеве самоврядування, державне управління, системна трансформація, Польща*

Section 5.
SELF-GOVERNMENTS AND IMPLEMENTATION OF SPECIALIZED POLICIES

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PUBLIC-PRIVATE PARTNERSHIP IN UKRAINE AS A DRIVING FORCE FOR THE LOCAL GOVERNMENT'S DEVELOPMENT

Summary

The article is devoted to the role of public-private partnership (PPP) in the development of local government in Ukraine.

The possibilities of using foreign experience in the implementation of PPP projects in Ukraine are analyzed, the most actual legal problems that arise during the implementation of the relevant projects and the ways of their solution are discussed.

A key role of PPP in the development of local self-government bodies in Ukraine is substantiated. Forms and PPP models represent certain investment models in which public and private sectors share financial value, risks and rewards for providing public services. The PPP is a powerful incentive for attracting private sector investments into the national economy of Ukraine. At the same time, the participation of territorial communities in the implementation of investment / innovation projects PPP is characterized by complexity and long-term process. Sometimes a local government body is unable to implement such a project on its own because of the lack of funding and a number of other components.

The author justifies the necessity of establishing Coordinating councils for the planning and implementation of PPP projects in the structure of the united territorial communities of Ukraine.

The author argues that the legal basis for relations in the sphere of the SPT should be secured in the codified normative legal act - the Code of Ukraine in the field of relations of public-private partnership (PPP). The conceptual content of the basic provisions of this normative legal act is substantiated.

Key words: *public-private partnership, strategic projects, model, local government, management*

Cooperation is an indispensable sign of life in society. This phenomenon is typical for the modern sphere of management, which has various ways of combining public and private interests. In addition, it is the cooperation of the holders of public and private interests that makes it possible to more or less normally take into account these categories of interests in order to ensure the efficiency and social orientation of the market economy as one of its main constitutional principles (Constitution of Ukraine, 1996).

Under certain conditions, such cooperation can be characterized by the presence of signs of a general implementation of the public-private partnership (PPP) project, which (the project) may have different models, directions, spheres of application, etc.

Public management (in a broad sense) of the PPP on the part of the state is manifested primarily in the proper regulatory and legal regulation of relations arising from the use of this form of state / local government and private business' collaboration.

On June 27, 2014 a summit of the EU member states was held in Brussels where the economic part of the Association Agreement between Ukraine and the EU was signed with the creation of an in-depth and comprehensive free trade zone, simplification of the visa regime (the political part of this agreement was signed on March 21, 2014). Taking into consideration the abovementioned facts, the problem of bringing Ukrainian current legislation in accordance with the requirements of the EU becomes of high significance.

At the same time, development of ways to solve problems in the implementation of PPP projects in Ukraine calls for addressing to the scientific achievements of both domestic (O. M. Vinnik, O. E. Simson and many others) and foreign scientists (M. Geddes, H. van Ham , D. de Doug de la Cul, A. Reginato,V. Varnavsky, F. Heather, B. Charlie, V. Jaime and many others).

The purpose of this article is to study both Ukrainian and foreign experiences in implementing PPP projects, highlight the most pressing problems of legal regulation of such implementation in the framework of a broad understanding of public administration, and also to define the role of Local Government under the PPP project's realization.

The development of the local government in Ukraine has very tight conections with the problem of its decentralization which means transfer of powers and budget revenues from state authorities to local self-government bodies.

The aim of the reform of local self-government is, first of all, to ensure its ability to independence, at the expense of its own resources to resolve issues of local importance. It is about giving to the territorial communities greater resources and mobilizing their internal reserves.

The same experience we can see in Poland. Recently the Polish government has adopted a law that simplifies the attraction of investments. This is a Public-Private Partnership Law, which will help to increase the participation of private investors in infrastructure projects in Poland. The legislative act defines the concept of "public partner" (budgetary organizations), the procedure of financial and economic analysis of proposals of private partners, the system of risk assessment and their distribution among partners, the criteria for selecting a private partner, clarity in determining the rights and obligations of each party, the system of protection of investors. Polish economists predict that the introduction of new provisions will allow signing contracts worth 4 to 5 billion złotyh per year and save over 400 million zlotyh of the state treasury. Only last year, local governments in Poland received investments worth 50-60 billion złotyh, including in forms of public-private partnership. Most of these projects are implemented in accordance with the law on public procurement, but based on information coming from all provinces (voivodships).

The peculiarity of PPP system is, in particular, that for the realization of investments with a private partner, local self-government bodies should not have their own financial resources, but only own a land plot for the purpose of construction. In addition, the new law gives opportunities (autonomy) to the parties on determining the subject of the transaction. It also does not specify the detailed content of the agreement, but contains only the main elements that must be included in it (2009 – the Opening year for attracting PPP investments).

On April 2014, the Cabinet of Ministers of Ukraine approved the concept of reforming Local Self-Government, which consists of three stages (The essence of local government bodies reform).

The first is basic – the formation of united communities at the basic level of administrative and teritorial system of Ukraine.

The second – is the creation of new districts, which will only solve the issues that are within the competence of the district: municipal property, secondary medicine, boarding schools, etc. Rest of the districts' powers will be transferred to the competence of the united communities.

The third direction (the final) – rayoni (districts). In essence the boundaries of districsts will not change. Districts will be renamed into regions. The number of regional centers is the same. Only a form of management will be changed.

The main territorial unit is the community. The community has a head and an executive committee that performs all the functions of the community management.

The main idea of reforming local government bodies using PPP is that the united territorial communities will be able to carry out external borrowings,

independently choose institutions for servicing local budgets in terms of the budget of development and own revenues of budget institutions.

With the adoption of the law on decentralization of powers in the field of architectural buildings, the control and improvement of town-planning legislation, local self-government bodies acquire the right to determine the city planning policy independently.

The essence of local government reform is also connected with the adoption of laws on decentralization of powers and regulation of land relations. The right to manage land outside of settlements will be given to the communities.

Austrian experience in PPP project management (Erlach, 2002, p. 6-7) includes such models: 1) the model of an infrastructure object's operation, in which a private partner company takes the obligation to manage and operate an infrastructure facility on behalf of a public partner; the ownership of the object in this case belongs to the public partner; at the same time the latter is entrusted with risks implementation of the project; 2) the model of development and management of the facility, according to which the obligations for the design, construction, financing and operation of the infrastructure facility are performed by the private partner in accordance with the terms of the concluded contract. This model assumes a wider range of responsibilities that a private partner can carry, in comparison with the previous model; 3) the licensing model (in the sphere of public services), according to which public partner provides companies from the private sector with a license for the construction of an infrastructure facility, and the private partner is obliged to make the necessary financial provision for the project in the form of loans to a public partner. At the same time, when the construction is completed, the project becomes state property, and the private partner receives monetary compensation for the investment costs incurred, regardless of the fact of using the infrastructure facility; 4) a model of cooperation that provides for the creation by a public and private partner (partners) of a joint venture (corporate-type organization) that is responsible for the financing, construction and operation of an infrastructure facility. Management of this enterprise is carried out by both partners jointly on equal conditions ("management of affairs"). The main difference of this model is that the public partner retains the powers allowing to make direct influence at all stages of the project's implementation using experience and competence, as well as private sector's capital.

At the same time, the public sector in most cases of implementing PPP projects is represented by Local Government bodies (McQuaid, Scherrer, 2008, p. 18]. Thus, according to official statistics (as of 2004), out of 185 projects implemented at that time within the framework of PPP, 58% of projects had

Local Government bodies as public partners, while only 21% of the projects involved federal public authorities, and 21% of projects were realized by the state authorities of the federal states (McQuaid, Scherrer, 2008, p. 18).

At the municipal level, the implementation of PPP projects is mainly carried out in the energy sector (McQuaid, Scherrer, 2008, p. 18).

In the UK, as noted by some authors, there is a centralized approach to the implementation of public administration in the field of PPP, involving the creation of units that regulate the usage of this institution throughout the state, but under the condition that the direct implementation of such projects will always remains the responsibility of the respective departments, bodies of state power or local self-government.

Thus, local self-government bodies, in accordance with the provisions of the Law on Local Self-Government Bodies of 27.07.1999, have competence in implementing projects within the framework of PPP projects realization (Simončič, Temeljotov, Liyanage, p.2; McQuaid, Scherrer, 2008; Local Gov. Act, 1999).

In the early 90s the government of John Major approved the Private Finance Initiative (PFI) – the first systematic program aimed at stimulating private investments, which appeared as a result of concerns about increasing the Governmental debt in the standard model of public procurement in the end of 80s. With the help of the PFI the state ordered the construction of the facilities which required large investments of the private contributors at their expense. After the construction of the facility had been completed it was taken into the long-term lease by the state. Thus, the private investments were remunerated by paying rents, and after the expiration of the lease period the facility was transferred into the municipal property at a symbolic cost or even for free. In many cases the contributor was involved in the subsequent operation of the facility and earned an income from this. Infrastructure objects (such as highways and railroads, schools, hospitals, prisons and so on) could become the subject-matter of the PFI.

In the UK during the period of only six years (from 1997 to 2003) 563 projects were implemented using the PFI mechanism, having a total value of 35,5 billion pounds. Attraction of innovative technologies and improvement in the quality of services because of the involvement of private investments became an important stimulus for the UK's national economy (Simson, 2014, p. 310-311).

It should be noted that the concept of PPP in Canadian law has a special meaning. First, it relates to the provision of public services and to municipal infrastructure. Secondly, this form requires the distribution of risks between

partners. Projects that do not fall under these two conditions cannot be considered to be a “public-private partnership”, and respectively, cannot receive support from the Canadian Council for Public-Private Partnerships. It is worth mentioning, the definition of the PPP concept proposed by the Canadian Public-Private Partnership Council: “A joint venture, established by the public and private sectors, built on the experience of each of the partners and best suited to clearly defined social needs through appropriate allocation of resources, risks and benefits”. Here we see a well-established principle of priority of public interest in the implementation of public-private partnership (Definitions; Sazonov, 2012, p. 82).

The level of support for the essential idea and projects of PPP by the population of Canada is very high. Nine out of ten Canadians believe that the government is not able to keep pace with the growing infrastructure needs of the country. 2/3 Canadians support the use of public-private partnerships to provide infrastructure and implement some public services. Support of public-private partnership ideas by the population of the Ontario province rose from 56% in 2008 to 64% in 2010. More than half of trade union members support public-private partnerships (Practicheskoe ruk., 2008, p. 88-90; Building Canada’s Future, 2010).

The Government of Denmark and the Association of Municipalities “Local Government in Denmark” concluded an agreement on the mandatory appointment and coordination of collaboration in the form of PPP. In accordance with this agreement, by the end of 2010, 26.5% of tasks facing municipal entities were assigned to the private sector, while obligations under ordinary contracts on general public procurement were included in these tasks as well. In addition, the key point of the agreement was that this appointment is not mandatory, since no sanctions were provided for non-compliance with this requirement.

In 2004, the Government of Denmark adopted the “Action Plan for Public-Private Partnerships”, which listed ten initiatives to support such public-private partnerships, especially with regard to construction and infrastructure projects.

However, the PPP may not always be the driving force for attracting investments into the national economy. Since the 1990s local government in the Danish city of Farum has been very active in attracting private partners to participate in providing infrastructure within public-private partnerships. In 2000, the local government of Farum signed a contract on public-private partnership on kindergartens and nursing homes. It made a deal to lease these facilities, school buildings together with the water supply system to a private sector. It also signed an agreement on the implementation of public-private partnerships under the BOOT scheme (building - ownership - operation -

transfer) with respect to the construction of the Farum Arena Sport and the Farum Park football stadium, as well as the Faro Sea and Navigation Center Marina (Greve, Ejersbo, 2003, p. 2).

At the beginning of 2002, a huge scandal broke out in connection with the shortage of funds, which had serious consequences for local self-government bodies. One of the reasons for this situation was the fact that the structure of the contract management was too complicated to be controlled by the administration of the city, and that public-private partnerships at the time were a relatively new phenomenon for central government bodies. In addition, there was still no effective regulatory and legal regulation of public-private partnerships, especially at the level of municipalities. According to the experts, the main reason for the failure of implementing public-private partnerships in Farum are violations of the regulations issued by the European Union in terms of regulation of tenders and implementation of contracts (Guidelines, 2003, p. 2, 8).

PPP became an integral part of reform of public budgets in Czech Republic. PPP could be an effective way to bring additional financial sources to public budgets and to realize valuable projects in many fields. Generally, it seems to be an instrument for increasing quality of public services. The entire lack of financial resources in public budgets evokes the need for reduced cost of public services. PPP can improve revenue collection, exploit private sector management skills, provide new services and share the risk with private sector. In fact, PPP is just a different form of public procurement. It is one of several procurement options opened to the public sector for modernizing infrastructure, with its own characteristics, costs and benefits. It is one of a number of ways to involve the private sector in improving public services. Of course, it should only be used where it is appropriate.

We can identify various types of PPP: Service Contracts, Concessions, BOT, DBFO, and some others. Concessions are typical form of PPP. They are being used for huge infrastructural projects in transportation. The roles and responsibilities of the partners may vary from project to project. In some projects, the private sector partner will only have a minor role, while in others, significant involvement in all aspects of service delivery is suitable. "While the roles and responsibilities of the private sector partners may differ on individual servicing initiatives, the overall role and responsibilities of government do not change." Each type of PPP has inherent strengths and weaknesses which need to be recognized and integrated into project design. They differ in the terms of ownership, quality of delivering public services, cost effectiveness, realization in time. It is also important whether the project is able to supplement insufficient public finance resources (Markéta Řežuchová).

Pilot PPP Projects in Czech Republic [18]

Title	Description of Project	Submitter	Sector	Costs	Type of PPP	Period	Stadium
AirCon (Airport Connection)	Transport Modernization and connection with airport	Transport Department	Transport-Railways	532 – 639 mil euro	BOT / DBFO and contract for operating	30 – 40 years	Preparation and realization of the PPP project was approved by the Czech Government resolution No. 76 / 19 January 2005
Sections of D3 Motorway	Build, servicing, and operating highroad , stage length 30 km	Transport Department	Transport-Roads	390 mil euro	BOT	30 years + 6 years for building	Preparation and realization of the PPP project was approved by the Czech Government resolution No.1017/ 17 August 2005
Hospital "na Homolce"	Design, build, financing and operating facility for granting healthcare + subterranean parking (300 parking places)	Hospital (local government)	Accommodation-Health	22 mil euro	DBFO	15 – 20 years	Preparation and realization of the PPP project was approved by the Ministry of Health, Ministry of Finance and PPP Centrum
Sports-Leisure centre Ponava in Brno	Build, modern sport – cultural and relaxation centre	Local government	Sports-Leisure	71 mil euro	DBFO	-	Public Procurement for advisors selection for Phase I. was approved by the Steering Committee and Brno City Council on 23rd March 2006

The EU researchers scrutinized PPP projects realization in European countries and analised their effectiveeffectiveness in comparison with public procurement system. Results are shown below:

The Effectiveness of Alternative PPP structures (PPP Centrum, 1995)

	Improved Service	**Enhanced Operational Efficiency**	**Enhanced Risk Sharing**	**Life Cycle Costing**	**Accelerated Implementation**	**Leveraging of Public Funds**	**Implementation Constraints**
Private Outsourcing							
Service Contracts	Possible	Yes	No	No	No	No	Low
Management Contracts	Yes	Yes	No	No	No	No	Moderate
Leasing	Possible	Yes	Some	Possible	No	No	Moderate
Integrated Private Development							
BOT	Yes	Yes	Some	Yes			High
Private investment							
DBFO Concessions	Yes	Yes	Yes	Yes	Yes	Yes	Very High

Table 2: Public and private sectors´ function in the different type of PPP (PPP Centrum, 1995)

Type of PPP	**Designing**	**Building**	**Financing**	**Ownership**	**Operating**	**Servicing**	**Delivering services**
Contract serveces	PUS	PUS	PUS	PUS	PUS	PRS/ PUS	PRS
Leasing	PUS	PUS	PUS	PUS	PRS	PRS	PRS
BOT	PRS	PRS	PUS	PUS	PRS	PRS	PRS
DBFO	PRS	PRS	PRS	PUS	PRS	PRS	PRS
Concession	PRS	PRS	PRS	PRS than PUS	PRS	PRS	PRS

PPP projects realization allows not only to attract additional investments and modernize municipal facilities but to use latest know-how and other intellectual property. From the other side, it gives the possibility to avoid the short-term and frequently corruptional tender processes.

Thus, Houston City Council (Controversial waste, 2018) has awarded FCC Environmental Services, the American environmental services subsidiary of the FCC Group, the contract to design, finance, build and operate the plant that will sort, recover and market all the city's recyclable materials for 15 years, extendable up to 20 years. The expected contract value is more than $250 million, including the sale of recovered materials from Houston and from third parties.

The plant is planned to treat 120,000 tonnes per year with a maximum capacity of 145,000. The process line will be fully automated and will be equipped with the latest materials separation technologies. The collection vehicle fleet owned by the city of Houston will carry the mixed recyclable materials from the selective collection bins to the FCC facilities which will process and commercialise all the city's recyclables exclusively.

FCC will take over the city's recycling processing in approximately 14 months, when it is scheduled to complete construction of a US$23 million processing plant that will employ 100 to 140 people innortheast Houston. Upon completion FCC will give the plant to the city. This coincides with the expiration of the current recycling contract.

This brings to an end a difficult and controversial tender process. Prior to the current Mayor taking office in January 2016, an innovative One Bin contract was proposed and its proponent, a company called EcoHub, was selected as the winning bidder to provide the city's recycling services.

The One Bin proposal involved collecting all trash, recycling and yard waste in one bin and recycling up to 75% of it. The company would then sell the recycling materials for new products. EcoHub's ultimate ambition is to eliminate the need for landfill.

Despite the seemingly huge environmental advantages of the scheme and recommendations from City of Houston staff, including the Chief Development Officer, the Mayor did not finalise the award. Instead, a two-year interim recycling contract with Waste Management was announced in March 2016, and a Request for Proposals for the P3 contract was released in October.

FCC was selected as the city's new recycling provider in June 2017 but bids for the contract were reopened to FCC and three other companies (Waste Management, Republic Services and Independent Texas Recyclers) about a month later due to council-members' concerns. EcoHub filed a lawsuit against

the City in August 2017 in an attempt to gain more information about the sudden termination of the One Bin contract. The company has accused public authorities of rigging the tender process.

Following this, in September Houston was struck by Hurricane Harvey, suspending recycling services entirely and all work being done to progress the tender. Furthermore, the award comes after the city council twice delayed formally approving the contract in the last few weeks. Thus, the significance of this development in FCC's favour cannot be underestimated.

This is the ninth contract won by FCC Environmental Services in the USA. The first contracts achieved in Texas were the transport of bio-solid wastes in the city of Houston, the construction and management of the new Materials Recycling Plant (MRF) in the McCommas Bluff Landfill facilities south of Dallas and the treatment and commercialising of all the recyclable materials for the city of University Park.

In 2017, the company won three new contracts in Texas, in the cities of Mesquite, Garland and Rowlett. FCC also won two contracts for the collection of solid urban municipal wastes in Polk County and Orange County, both in the state of Florida.

Another example (Contract signed, 2017). BAAK Blankenburg-Verbinding, a consortium consisting of Ballast Nedam, DEME and Macquarie Capital, has signed the contract for the A24 Blankenburg Tunnel (Blankenburgverbinding) with the Directorate-General for Public Works and Water Management (Rijkswaterstaat) of the Netherlands. Financial close is expected to take place in 2018.

The Blankenburg Tunnel is a key infrastructure project to both the port and wider region of Rotterdam. It will involve the construction of a new 4km A24 motorway, which will connect the A20 and the A15motorways. These two roads are part of Rotterdam's main infrastructure.

The project includes the construction of an immersed tunnel under the Rotterdam port waterway, a land tunnel, two busy junctions (connecting the A24 to the A20 and the A15) and the widening of the A20between the A24 and the Kethelplein.

Through improving accessibility and reducing congestion in one of the Netherlands' most economically important regions, the project will contribute significantly to economic growth.

The consortium will design and construct the A24 Blankenburg Tunnel, and following its opening, manageand maintain the road for 20 years. Construction is expected to commence in August 2018 and becomplete by the end of 2024. The estimated total value of the project is EUR1 billion (US$1.2 billion).

The equity partners in the project are Macquarie Capital (70%), Ballast Nedam Concessies (15%) andDEME Concessions Infrastructure (15%). The actual construction will be carried out by a consortium consisting of Ballast Nedam Infra and the DEME companies DIMCO and Dredging International. In addition, Macquarie Capital is acting as sole financial advisor to the BAAK consortium.

The project plays an important role in the execution of the 2009 Masterplan Rotterdam Vooruit which governs the development of the Rotterdam region from 2020-2040. The objectives are to strengthen the city and port to drive economic growth, invest in existing urban areas and make potential development locations within urban areas accessible. These serve to increase the competitiveness of the urban regions.

International experts and Dutch state authorities principally admire positive efficiency of mentioned above project. Thus Minister van Nieuwenhuizen of Infrastructure and Water Management, said: "this is a great step towards the construction of the Blankenburgverbinding. This totally new motorway towards the port of Rotterdam will ensure a relieve of congestion at this economically important region".

On behalf of the BAAK Blankenburg-Verbinding consortium, Martijn Klinkhamer, board member of BAAK, added: "We are very proud to have reached this important step in the Blankenburg project. In building a consortium of leading engineering contractors, tunnelling and infrastructure funding specialists, I have great confidence in BAAK providing a comprehensive solution to relieve Rotterdam of congestion and provide enhanced transport infrastructure. We look forward to making a significant contribution to one of the Netherlands' most economically significant regions working closely with Rijkswaterstaat."

Mexico's Institute for Social Security and Services for State Workers (ISSSTE) has awarded a consortium led by Sacyr Concesiones the concession of the new General Hospital of the South Regional Delegation of Mexico City (Sacyr wins, 2017).

The project includes the financing, design, construction and equipment of the hospital and its operation and maintenance for a period of 23 years. Prestadora de Servicios Alencastre, S.A.P.I. de C.V. is also part of the consortium.

The initial investment in construction and equipment is close to US$108.5 million. The construction stage will begin later this year and will carry on until the third quarter of 2019. The General Hospital will serve around 1.2 million people in the south of the Mexican capital. It will have a total of 250 beds and 36 doctor's offices to provide 32 medical specialties, with a total area of 33,480 m2.

The South Regional Delegation hospital is the first in Sacyr's concession system in Mexico, where the company is building three other hospitals, Querétaro, Pachuca and Acuña. Sacyr is also bidding for the Garcia General Regional Hospital PPP, located in the region of Nuevo León. Last July, Sacyr Concesiones entered the Mexican market with the renovation, maintenance and conservation project of the Pyramids-Tulancingo-Pachuca road for a period of 10 years.

On June 17, 2015, the Ukrainian Center for Tomotherapy was opened at the Regional Oncology Center in Kirovograd. Here for the first time in the country the European model of private-public partnership in the oncology industry was implemented (Ukrainskyi tsentr tomoterapii).

The Ukrainian Center for Tomoherapy (UCT) is a center for prevention, early diagnosis and treatment of patients with cancer. The area of the center is 1000 m2. The first patients received treatment in March 2015. The capacity of the center - the treatment of about 2000 patients per year. The opening of UCT was made possible by the successful format of public-private partnership between European investors and the Kirovograd region. The UCT serves as a real working example of the European model of medicine development, which combines the interests of the patient, the state and the investor.

Diagnosis and treatment of patients with cancer are conducted on the basis of a license from the Ministry of Health of Ukraine for "medical practice" and licenses of the State Nuclear Regulatory Committee of Ukraine. The investor of the project was the Di ES Em Holding Limited Liability Company.

The center employs more than 30 staff: doctors, nurses and medical engineers - the staff is carefully selected on a competitive basis. Professionals in medical and engineering professions from more than 10 countries: Germany, Poland, Great Britain, Sweden, Georgia, Spain, Russia, etc. participate in the establishment and daily work of the Center.

In 2016, it was planned to establish a training center for doctors and medical physicists.

The project has several hundreds millions hryvnas of investments, and the funding is ongoing. The center will treat both adults and children. Annually, about 50 patients will receive free cancer treatment upon the reference from the Kirovohrad Regional Oncology Center and other oblast oncologic centers. Children from the Kirovograd region will be diagnosed free of charge for the purpose of early detection of cancer and exclusion of oncopathology. Free treatment of children from the Kirovograd region will begin in 2016. This is a social contribution of the center to the fight with cancer in the Kirovograd region, where the highest rates of cancerous diseases' morbidity and mortality in Ukraine are registered.

During the design of the center, the practical experience of European oncology centers, in which all the infrastructure works to achieve a positive outcome of treatment and a comfortable stay of the patient, is used. Specialists of UCT were trained in clinics in Germany, Poland, Turkey and Georgia, where they adhered to a comprehensive and cautious approach in the treatment of cancer patients. Manufacturers of medical equipment have also become active participants of the project: the American company Accuray, Swedish "Elekta" and Japanese "Toshiba".

Thus, the key role of PPPs in the development of local self-government bodies in Ukraine is as follows:

1) a powerful incentive for attracting private sector investments into the national economy of Ukraine. Thus, forms and models of PPP represent certain investment models in which public and private sectors share the financial value, risks and rewards of providing public services. At the same time, participation on the side of the public partner of the local self-government body allows for ensuring the provision of public services to the population (in particular, housing and communal services) for the most economically justified ratio "value for money".

One of the elements of public administration (in the broad sense) by local governments is the planning - that is, the definition of publicly important projects that should be implemented in the form of the PPP, and not, for example, in traditional public procurement procedures.

Therefore, we consider it necessary to implement the positive experience of Turkey in the field of the PPP, according to which public authorities and local governments intending to implement a PPP project should apply to the organization of state planning with prior research and a bidding strategy. After receiving a positive opinion from the organization of state planning and in order to obtain permission to conduct a tender on a planned PPP model, local self-government bodies must apply to the High Council for Planning (Guliev, 2012).

Therefore, we consider it necessary to create Coordinating Councils for the planning and implementation of PPP projects in the structure of the united territorial communities of Ukraine;

2) state regulation of relations with regard to PPP (according to the Law of Ukraine "On Public-Private Partnership" adopted 01.07.2010) (Zakon Ukrainy "Pro derzhavno-privatne partnerstvo, 2010") has two components:

- providing state support in order to encourage potential partners to participate in the PPP; may be provided in accordance with the order of the Cabinet of Ministers of Ukraine by the decision of the authorized body (Part 2, Article 18), including, in particular, provision of guarantees by local self-government bodies, financing from the funds of local budgets and in other forms provided by law;

- the establishment of restrictions (in order to take into account public interests) in the form of the requirements for the PPP (definition of the main parameters of the PPP, requirements fpr private partners, the order of their election, conclusion of contracts in the framework of the PPP, performance of contractual obligations), control over their compliance (in order to achieve a socially necessary result), which should be carried out not only by the authorized authority on PPP issues (currently the Ministry of Economic Development and Trade of Ukraine) (Polozhennya KMU, 2014), but also at the regional and local levels, in particular by the prefectures.

Thus, the participation of territorial communities in the implementation of investment / innovation projects of PPP is characterized by the complexity and long-term nature of the latter, as well as the failure of the local self-government body to implement such a project on its own due to the lack of funding and a number of other components (lack of experience, staff, new technologies, etc.) (Vinnyk, 2010, p. 124-125);

3) there is no doctrinal classification of public and private partners, depending on their role in the implementation of the relevant infrastructure project. In particular, the uncertain powers of the Antimonopoly Committee of Ukraine, which in certain cases should conclude that there is no economic concentration in the actions of business entities, the powers of the National Commission on Securities and Stock Market, the National Commission that performs state regulation in the fields of energy and utilities (at implementation of PPP projects in the sphere of housing and communal services) (Zakon Ukrainy «Pro Antymonopolnyi komitet Ukrainy», 1993; Polozhennia pro Natsionalnu komisiiu, 2011; Polozhennia pro Natsionalnu komisiiu, shcho zdiisniuie derzhavne rehuliuvannia, 2014); ways to solve the problem - implement in the legislation of Ukraine the notion of the so-called "auxiliary" public partner when implementing the PPP project - that is, a public partner whose powers are limited to administrative and regulatory or control functions and which participates in the implementation of the PPP project exclusively on the basis of the law;

4) public administration in the sphere of PPP manifests itself primarily in the legal regulation of relations, which are formed when using such a form of cooperation between local governments and private business.

Taking into account the above mentioned information, given the polymorphism (plurality) of the forms and models of the PPP, the legal framework for relations in the field of such cooperation should be secured in the codified normative legal act, namely the Code of Ukraine in the field of relations of public-private partnership (PPP) with the possibility (upon need) to be regulated by the relevant relations also by other legislative acts.

The mentioned Code should contain the following provisions:

- a single procedure for selecting a private partner irrespective of the PPP direction (concessions, production-sharing agreements, lease of state / communal property, privatization of state property, etc.);

- provisions on the ownership of the PPP object: such ownership remains with the public partner (partners) before the expiration of the project implementation period, which allows retaining the control and oversight authority over the proper performance of its obligations by the private partner (Vinnyk, 2010, p. 109-144);

- the concept and features of the PPP project, its types (in particular, depending on the source of income receipt by the private partner: from the end users, from the government, from the government together with the international financial organizations funds, etc.), as well as the essential conditions of such a project (with the definition of the notion "essential project conditions") to which belongs publicly available financial balance of the project (in order to ensure the principle of transparency);

- provisions on the "right to intervene" in the implementation and management of the PPP project, the legal status of the sponsors and lenders of the PPP project, and others;

5) considering the possibility of participation of the entities which have public interest of various levels in the PPP, in particular regional and local, classification of public partners can be made using the following criteria:

- the criterion of the level of public interest: national, regional and local (alternative: centralized and decentralized);

- the criterion of administrative and administrative functions (powers): main and auxiliary;

- depending on the stage of the project implementation (public administration): public partners involved in the legal regulation of the PPP relationship, the planning of the PPP, the ongoing management of the PPP project, and the monitoring of the compliance of the PPP with the legislative requirements and contractual obligations for the realization of the project.

Currently, the PPP in the areas of infrastructure networks construction and operation, in the provision of service-infrastructure and other public services is developing rapidly and is of increasing interest in the world. However, the absence of a sufficient scientific study of implementiaton of a specific PPP project significantly slows down this development.

Taking into account the foregoing, the conducted scientific study of the issues covered in this article allows us to assert the relevance and practical necessity of writing scientific papers on the topics of the PPP.

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Streszczenie

Artykuł poświęcono badaniu roli partnerstwa publiczno-prawnego (PPP) w procesie rozwoju organów samorządu terytorialnego na Ukrainie. Przeanalizowano możliwości wykorzystania zagranicznego doświadczenia w zakresie realizacji PPP na Ukrainie, ukazując najbardziej aktualne problemy prawne, które pojawiają się w toku implementacji stosownych projektów oraz drogi ich rozwiązania.

Autor dochodzi do wniosku, że PPP odgrywa kluczową rolę w procesie rozwoju organów samorządu terytorialnego na Ukrainie. Formy i modele PPP reprezentują określone modele inwestycyjne, w ramach których sektor publiczny i prywatny dzielą koszty, ryzyka i zyski związane ze świadczeniem usług publicznych. Przy tym uczestnictwo partnera publicznego pozwala organowi samorządu terytorialnego zabezpieczyć świadczenie usług publicznych dla ludności w oparciu o najbardziej uzasadnioną ekonomicznie relację „cena-jakość". PPP jawi się poważnym stymulatorem włączania inwestycji sektora prywatnego w narodową gospodarkę Ukrainy.

Jednocześnie uczestnictwo gmin terytorialnych w realizacji projektów inwestycyjnych PPP charakteryzuje się złożonością i długoterminowością, a także niedostateczną zdolnością organu samorządu terytorialnego do realizacji takowego projektu samodzielnie, co wynika z braku niezbędnego finansowania oraz szeregu innych przyczyn. W celu rozwiązania tych problemów autor wskazuje na konieczność utworzenia w ramach struktury zjednoczonych gmin terytorialnych na Ukrainie Rad Korporacyjnych ds. Planowania i Realizacji Projektów PPP.

Autor stwierdza, że prawne podstawy stosunków w sferze PPP powinny zostać zawarte w usystematyzowanym akcie normatywno-prawnym – Kodeksie Ukrainy w sferze stosunków partnerstwa publiczno-prawnego (PPP) z możliwością (w przypadku konieczności) regulowania stosownych stosunków także innymi aktami prawnymi. W tekście uzasadniono także koncepcję treści podstawowych postanowień zawartych w rzeczonym akcie normatywno-prawnym.

Słowa kluczowe: *partnerstwo publiczno-prawne, strategiczne projekty infrastrukturalne, modele, organy samorządu terytorialnego, zarządzanie*

Резюме

Статья посвящена исследованию роли публично-приватного партнерства (ППП) в развитии органов местного самоуправления в Украине. Анализируются возможности использования зарубежного опыта реализации ППП в Украине, освещаются наиболее актуальные правовые проблемы, которые возникают во время имплементации соответствующих проектов и пути их решения.

Автор приходит к выводу, что ППП играет ключевую роль в процессе развития органов местного самоуправления Украины. Формы и модели ППП представляют собой определенные инвестиционные модели, в которых публичный и приватный секторы разделяют финансовую стоимость, риски и вознаграждение за оказание публичных услуг. При этом участие на стороне публичного партнера позволяет обеспечить органу местного самоуправления оказание публичных услуг населению по наиболее экономически обоснованному соотношению «цена-качество». ППП является серьезным стимулом для привлечения инвестиций приватного сектора в национальную экономику Украины.

Вместе с тем, участие территориальных общин в реализации инвестиционных проектов ППП характеризуется сложностью и долгосрочностью, а также недостаточной способностью органа местного самоуправления реализовать такой проект самостоятельно из-за отсутствия необходимого финансирования и ряда других причин. С целью решения этих проблем автор обосновывает необходимость создания в структуре объединенных территориальных общин Украины Координационных рад по планированию и реализации проектов ППП.

Автор утверждает, что правовые основы отношений в сфере ППП должны быть закреплены в кодифицированном нормативно-правовом акте – Кодексе Украины в сфере отношений публично-приватного партнерства (ППП) с возможностью (в случае необходимости) урегулирования соответствующих отношений также другими законодательными актами. Обосновывается концептуальное содержание основных положений этого нормативно-правового акта.

Ключевые слова: *публично-приватное партнерство, стратегические инфраструктурные проекты, модели, органы местного самоуправления, менеджмент*

Аннотація

Стаття присвячена дослідженню ролі публічно-приватного партнерства (ППП) у розвитку органів місцевого самоврядування в

Україні. Аналізуються можливості використання зарубіжного досвіду реалізації проектів ППП в Україні, висвітлюються найбільш актуальні правові проблеми, що виникають під час імплементації відповідних проектів та шляхи їх вирішення.

Автор доходить до висновку, що ППП відіграє ключову роль у процесі розвитку органів місцевого самоврядування України. Форми та моделі ППП являють собою певні інвестиційні моделі, в яких публічний та приватний сектори поділяють фінансову вартість, ризики і винагороду за надання публічних послуг. При цьому участь на боці публічного партнера органу місцевого самоврядування дозволяє забезпечити надання публічних послуг населенню за найбільш економічно обґрунтованим співвідношенням "ціна -якість". ППП є потужним стимулом для залучення інвестицій приватного сектору до національної економіки України.

Разом з тим, участь територіальних громад у реалізації інвестиційних/інноваційних проектів ППП характеризується складністю та довгостроковістю останніх, а також неспроможністю органу місцевого самоврядування реалізувати такий проект самостійно через відсутність необхідного фінансування та низки інших складових. З метою вирішення цих проблем автор обгрунтовує необхідність створення у структурі об'єднаних територіальних громад України Координаційних рад з планування та реалізації проектів ППП.

Автор стверджує, що правові основи відносин у сфері ППП мають бути закріплені у кодифікованому нормативно-правовому акті - Кодексі України у сфері відносин публічно-приватного партнерства (ППП) із можливістю (за потреби) урегулювання відповідних відносин також іншими законодавчими актами. Обгрунтовується концептуальний зміст основних положень цього нормативно-правового акту.

Ключові слова: *публічно-приватне партнерство, стратегічні інфраструктурні проекти, моделі, органи місцевого самоврядування, менеджмент*

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THE CHARACTERISTICS OF THE LEGAL AND INSTITUTIONAL ASPECTS OF LOCAL ENERGY POLICY IN POLAND

Summary

The subject of analysis in this paper is the local energy policy of Poland in legal and institutional terms. The starting point for the analysis is the attempt to define the term "energy policy" and "local energy policy" on the basis of Polish legal regulations. In the subsequent sections, the selected powers and competencies of voivodship governments and municipal governments (local self-governing units) are presented in terms of energy supply and cooperation within the framework of local energy policy.

The main research goal of the presented analysis is a synthetic study of local energy policy. To specify the research problem, the following questions were indicated in the paper: (1) To what extent do legal and institutional solutions affect the implementation of energy policy in Poland? (2) To what extent do the legal and institutional solutions efficiently work towards achieving the objectives set forth by local energy policies in Poland?

Key words: *energy policy, local energy policy, energy law, economic policies, public policies*

Introduction

This text analyzes the legal and institutional aspects of the energy policy in Poland. The scope of the analysis will be on the the disparities between energy policy at both the state and local levels. In the paper, special attention is paid to the scope of competencies and responsibilities of the voivodship and municipal-level governments in regards to creating energy policy at the local level. In regards to voivodship government, attention has been paid to the following legal and institutional solutions: (1) the power and competencies of voivodship-level government in the context of forecasting "The Project of Assumptions for the Heat, Electricity, and Gas Fuel Supply Plan" (2) the coordination of inter-municipal cooperation, (3 ensuring the local energy policy is in compliance with the national energy policy. In the case of municipal government, attention was paid to the following legal and institutional solutions: (1) the planning of energy supply, (2) planning and financing lighting and electricity (3) measures to take regarding energy efficiency.

The main purpose of this text is to present the interconnection of matters pertaining to local energy policy. In order to specify the scope of the research problem, the following questions were presented: (1) To what extent do legal and institutional solutions affect the implementation of energy policy in Poland? (2) To what extent do the legal and institutional solutions efficiently work towards achieving the objectives set forth by local energy policies in Poland?

The analysis of this research will consist of the elaboration and synthetic presentation of select legal and institutional issues. The presented interpretations, are, generally, approximations of basic knowledge about the doctrine of administrative law in terms of the role of voivodship and municipal government in the creation of local energy policy.

1. National Energy Policy and Local Energy Policy

One of main problems of the Polish energy policy, despite the creation of plans and strategies concerning various sectors of energy technology, is a lack of stable and strategic solution implementation capabilities. From a legal standpoint, the lack of accountability for failures to implement premises contained in the document referred to as the "Energy Policy of the State" (art. 13-15 PrE), as well as other plans created at the government administration level, is a significant disadvantage. The problem of accountability can be considered on the basis of uncoordinated political activities, and the legal regulations which yield such a situation. Regarding uncoordinated political activities, attention should be paid to political factors including: political divisions (inter-party, inter-parliamentary, inter-governmental), and the efforts of interest groups and lobbyists (including interest groups representing the energy sector). Considering the legal regulations, the legal significance of the "Energy Policy of the State," and its status within the structure of Polish administrative and constitutional law, should be addressed (comp. Rosicki, 2015, pp. 51-62; Rosicki, 2017, pp. 61-76).

The "Energy Policy of the State" is drafted by the Minister of Energy, and then it has to be adopted by the Council of Ministers via resolution. In the Polish legal system, the resolutions of the Council of Ministers are internal and binding for units subordinate to the issuing body, as laid out in Art. 93 of the Constitution of the Republic of Poland. Thus, a characteristic feature of such a "planning" document is that it has no binding force, and failure to implement the provisions creates no legal consequences, because it is unclear whether the Minister of Energy or the Council of Ministers are accountable (comp. Czarnecka, Ogłódek,

2007, pp. 331-334; Elżanowski, 2008, pp. 77-80; Waligórski, 2008, pp. 69-74; Jabłoński, 2013, pp. 219-227; Rosicki, 2017, pp. 61-76). It does not change a fact that the resolutions themselves are subject to control regarding their compliance with the commonly applicable law. This may give rise to a problem of interpreting resolutions, such as whether or not the "Energy Policy of the State" abides by the constitutional principles. These constitutional principles include: the principle of sustainable development (art. 5 of the Constitution), and the constitutional obligations of public authorities, for instance, to "prevent negative health consequences as a result of environmental degradation" (art. 68, section 4 of the Constitution), the obligation to enact policy "which ensures environmental safety for current and future generations" (art. 74, section 1 of the Constitution), an obligation to "protect the environment" (art.74, section 2 of the Constitution), and the obligation "to support citizens' environmental protection efforts" (art. 74, section 4 of the Constitution) (comp. Jabłoński, 2010, pp. 78-106; Dąbrowski, 2016, pp. 328-331).

The legal and institutional instruments of energy policy were defined by Polish legislation in the third chapter of the Energy Law Act. Polish legislators use various understandings of the concept of "energy policy," depending on the context and issues at hand. At least four definitions of "energy policy" can be distinguished. The first approach characterizes "energy policy" by indicating the goals should be achieved, and which objectives the Minister of Energy should consider when creating policy (art. 13 PrE). The second definition is based on the indication of tasks and the model of activities undertaken (art. 12 PrE). The third definition is connected to the main elements that should be included in the content of the "Energy Policy of the State" (art. 14-15 PrE). The fourth, and final approach, defines the entities responsible for "energy policy" (art. 12 and 12a PrE) (comp. Czarnecka, Ogłódek, 2007, pp. 325-363; Pawełczyk, Pikiewicz, 2012, pp. 430-482).

The issues of energy policy can also be considered based on the variance of articles contained in the third chapter of the Energy Law Act. The following seven thematic issues can be identified within the chapter: (1) energy policy as a strategy (art. 12 PrE), (2) energy policy as a specific document (art. 13 – 15a PrE), (3) energy policy as a monitoring system for energy security (art. 15b PrE), (4) energy policy as an operation of the President of the Energy Regulatory Office eliminating the security threats to the electricity supply (16a PrE), (5) energy policy as a mechanisms of a competitive energy market (15c and 15f PrE), (6) energy policy as demands directed at energy companies and transmission system operators (art.16 -16b PrE), (7) energy policy as local policy (art. 17 -20 PrE) (Rosicki, 2017, p. 64).

Energy policy can also be considered in a broader context, as the legal and institutional instruments which are guided by a broader system of values (polityka sensu largo). It should be noted that the Energy Law Act is a comprehensive mechanism for regulating the economic activity of the energy sector (Por. Hoff, 2008; Strzyczkowski, 2008, pp. 472-511; Kocowski, 2009; Rosicki, 2010, pp. 113-137; Szydło, 2011, pp. 74-270). The state uses various mechanisms to regulate business activity because of its importance for the state and society at large. Economic activity in the energy sector directly affects national security and the quality of social life. Energy policy must, therefore, be viewed through the lens of energy security, as well as of social and economic interest (Bogdanowicz, 2012; Szafrański, 2014).

In a narrower understanding of energy policy pertaining to a specific document, the main statutory elements should be assessed (policy sensu stricto). Therefore, the "Energy Policy of the State", as a specific document prepared by the Minister of Energy must cover following aspects: (1) the balance of fuel and energy for the country (2) the production capacity of national sources of fuels and energy; (3) the transport capacity, including connections between countries; (4) the energy efficacy of the country's economy; (5) the environmental protection efforts; (6) the development of renewable sources of energy; (7) the size and types of fuel stocks; (8) directions for the restructuring and ownership transformation of the fuel-energy sector; (9) directions for scientific research; (10) international cooperation (art. 14 PrE).

Due to the specificity of the scope of its subject, energy policy can be considered within the realm of local competences to be executed by lower-level administrative offices. The extent of this policy would be determined by the legal and institutional solutions which provide certain rights and responsibilities to local self-governments, for example voivodship or municipal governments (subjective aspects of local energy policy). Based on the competences of local self-government, a spatially based energy policy can be reasoned (an energy policy based on local provisions). In terms of the objective scope, specific powers and competencies of voivodship governments can be noted in regard to providing opinions on "The Project of Assumptions for the Plan of Heating, Electrical Energy, and Gas Fuel Supply." In the case of municipal governments, specific powers and competencies can be indicated in regard to the planning of energy supply as well as the planning of lighting and operations within the field of energy efficiency.

2. Duties of Voivodship Governments and Duties of Municipalities.

2.1. Voivodship Government.

The Energy Law Act states that voivodship governments participate in the planning of the energy and fuel supply within their own regions of authority (art. 17 PrE). The scope of voivodship governments' involvement in the planning, comes down to reviewing the "Project of Assumptions" (i.e. "Project of Assumptions for the Plan of Heating, Electrical Energy and Gas Fuel Supply"). Some authors indicate that linguistic interpretation requires that heating be excluded from this planning, however, a functional interpretation should be adopted, and it should be accepted that heating is included in the conception of energy (comp. Walaszek-Pyzioł, Pyzioł, 1999, p. 66). The aforementioned Project of Assumptions is a subject of opinion offered by the voivodship governments in regard to the coordinated cooperation with other municipalities and to ensure that it is in compliance of the national energy policy (art. 19, section 5 PrE). Furthermore, voivodship governments investigate the compliance of the "energy and fuel supply plans" with the energy policy of the state (art. 17 PrE). The above indicated tasks in the field of energy should be included in the administrative obligations of the which are implemented by the Voivodship Executive Board (art. 14 section 2 SmW) (comp. Czarnecka, Ogłódek, 2007, p. 348; Pawełczyk, Pikiewicz, 2012, pp. 466-467).

In regards to Polish administrative law doctrine, it should be noted that acts of planning (plans) are treated as separate forms of public administration activity. That being said the acts of planning are not treated as legal forms of activity, but rather as regulations, administrative acts, or collections of information. (comp. Wlaźlak, 2015, pp. 17-43, 70-118; Swora, Muras, 2016, pp. 114-115). J. Łętowski indicates that a plan is a tool to organize the means of action to achieve the intended goals. (Łętowski, 1990, p. 179). Therefore, plans for suppling heating, electricity and gas fuels should be treated as prognostic and program documents. In this case, the scope of the programming concerns the internal public administration activities, however the process of their creation and implementation affects many entities, such as citizens, governmental institutions, and businesses (Pawełczyk, Pikiewicz, 2012, p. 467; Swora, Muras, 2016, pp. 114-115). Regarding the previous example, the Voivodship Executive Board has an opportunity to give their opinion about the plans of energy enterprises ("development plans related to meeting the current and future demand of gas fuels or energy") as a part of coordinating with the President of the Department of Energy Regulation (See: art. 16 section 1, art. 23 section 3, art. 23 section 3 point 5 PrE) (comp. Pawełczyk, 2013, pp. 135-144).

The ability of the voivodship government to participate in the procedure of planning is significant importance to the analysis of local energy policy. Opinion giving should be treated as a form of cooperation between various institutional entities with different statuses in the administrative hierarchy (various relations of primacy and subordination). Attention should also be paid to the lack of consideration given to opinions during the cooperation process. In the Polish legal system, often, the entity requesting opinions fulfills thir obligation through the act of inquiry alone. Therefore, it does not matter if the opinion was given or whether it was consistent with expectations of the requesting agency. It should be noted that Polish regulations control the procedure of opinion giving in two ways. Regulations may indicate an obligation to request an opinion, but mandate the issuance of an opinion (Swora, Muras, 2016, p. 115).

In the case of issuing a "Project of Assessments for the Plan of Heating, Electricity, and Gas Fuels Supply" for a municipality by the voivodship government (art. 19 section 5 PrE), the procedure specified in the Local Self-Government Act (art. 89 SmG section 1-3) should be followed. According to this provision, if the law makes the validity of the municipal body decisions dependent on the agreement with superior bodies, the executive branch of the voivodship government is obliged to give an opinion within 14 days from the day from receiving the request. However, in a situation where Voivodship Executive Body does not take a position on the issue within the stipulated timeframe, the opinion shall be deemed adopted as submitted by the municipality (art. 89 SmG section 2).

The recommendations given by the voivodship governments are not binding directives for the municipalities. This situation yields two possible interpretations –the recommendation of the voivodship governments is merely informative, or the recommendations can be seen as interfering in the legally established municipal autonomy. There is also the problem of the coordination of cooperation between voivodship and municipal government in regard to the planning of heat, electricity, and gas fuels supply. The issues related to coordination of cooperation might be caused by municipalities implementing plans at different times, which leads to insufficient knowledge at the voivodship level (comp. Czarnecka, Ogłódek, 2007, pp. 356-369; Pawełczyk, Pikiewicz, 2012, p. 466; Swora, Muras, 2016, pp. 115-117).

2.2. Municipal Government

The Energy Law Act has distinguished the municipalities' competences regarding the supply of heat, electricity, and gas fuels. The main obligations of municipalities regarding energy supply include: (1) planning and organization of

the supply of heat, electricity, and gas fuels within the municipality, (2) planning of the lighting, (3) financing the lighting, (4) planning and organizing operations of energy rationing, promoting energy conservation, and sustainable solutions within the municipality, (5) evaluating the electricity generation potential of high-efficiency co-generations and the energy-efficient heating and cooling systems (art. 18 section 1 PrE). All these activities should be implemented in compliance with: (1) the local zoning development plan (or the municipal development directives included in the study of the conditions and directions for a zoning plan if, one has yet to be established), (2) an appropriate air quality protection program established based on the Environmental Protection Act (art. 18 section. 2 PrE; art. 91 OchS).

The provisions of the Energy Law Act concerning the responsibilities of municipal government should be treated as an extension of the competences and tasks of the municipalities, which are included in the Municipal Self-Government Act. The increase of municipal competences included in the energy laws constitute a refinement of the energy supply tasks as result of the limited scope of responsibilities (comp. Domagała, 2008, pp. 147-163; Pawełczyk, Pikiewicz, 2012, pp. 467-473; Swora, Muras, 2016, pp. 121-123).

The first municipal obligation is planning and organizing the supply of heat, electricity, and gas fuels within the municipality ("Energy Supply Planning") (art. 18 section 1 point 1 PrE). The planning process involves establishing goals, methods of implementation, and the timeline achieving the goals. It seems that these requirements directed at municipalities prescind their potential to execute such tasks. Energy supply planning remains largely beyond municipal competences. Within the extant framework, municipal involvement is, in essence, general and unsophisticated. Realistically, municipalities can effectively plan the energy supply of entities which remain under their control; schools, for instance, and other local public utilities.

The second municipal obligation is the planning of lighting within its jurisdiction. Legislators indicates specific areas within municipalities, which should be the subject of planning. Therefore, Municipal lighting initiatives, based on safety and security , should include public places, municipal roads, county roads, and voivodship roads. Lighting obligations also apply to the national roads, other than highways and expressways, such as pedestrian or bicycle roads, and additional roadways serving traffic from the surrounding countryside. (art. 18 section 1 point 2 lit. a-d PrE).

The third listed municipal obligation is financing the lighting within the jurisdiction (art. 18 section 1 point 2 lit. a-e PrE). This duty stems from the previous task because the need for lighting is linked to specific investment

processes. The municipal activities managing the lighting costs should be added to the investment process itself. The task of financing the lighting can be understood as bearing the cost of the electricity consumed by the lighting infrastructure (sensu stricto), but also as bearing the costs of installation and maintenance of the lighting infrastructure (sensu largo) (comp. art. 3 point 22 PrE). Actions regarding energy efficiency and effectiveness should also be included in the sensu largo approach (comp. Kasprzyk, 2004). Despite indicating the extent of funding, there are many contentious issues in terms of financing the lighting, such as a situation in which the municipality is not the owner of lighting infrastructure. For instance, if the municipality does own the infrastructure, it bears the costs of purchasing the electricity and transmitting the service, in accordance with the supplier's stipulations, and also bears the costs of modernizing the infrastructure. However, if the infrastructure is not owned by municipality (and it, for example, is owned by an energy company), then the municipality is not obligated to bear the costs of modernization (Stanowisko..., 2008). Inconsistencies in statutory provisions create issues of the interpretation of the scope the municipal activities and financial expenses.

The fourth obligation is planning and organizing the rationing of energy consumption and promoting energy conservation and sustainable solutions within the municipality. This task is related to fulfilling state obligations concerning increasing energy efficiency (Por. Sokołowski, 2014, pp. 187-208). A mechanism was created at the lowest administrative level, which should enforce activity and raise public awareness in the local community regarding energy efficiency (comp. EfE; Pawełczyk, Sokal, 2012). The means of improving energy efficiency by municipality include: (1) financing and implementing ventures aimed at improving energy efficiency, (2) purchasing energy efficient and low operating costs equipment, installations, and vehicles, (3) replacing equipment, installations, and vehicles with more efficient ones, (4) updating insulation in buildings, (5) implementing environmental management systems (art. 6 section. 2 point 1-5 EfE). The heads of municipalities can also take part in the actions to increase energy efficiency within the municipalities by creating regulations, which may be adopted by the Municipal Councils, within the framework of the "Project of Assumptions to the Plan of Heat, Electricity, and Gas Fuel Supply" (art. 19 section 3.3a PrE; art. 20 section 2.1b PrE).

The last obligation is the assessment of the electricity generation potential of high-efficiency co-generations as well as energy efficient systems of heating and cooling within the municipality (art. 18 section 1 point 5 PrE). It is difficult to justify the implementation of this obligatory municipal task, which is associated with little municipal knowledge regarding the subject matter and a lack of experts

who could prepare such evaluation. In practice, municipalities have to seek assistance to get the requisite information from electricity companies using co-generation or efficient energy systems. Consequently, this creates extraneous costs for municipal governments from outsourcing the assessments to external entities.

Outcomes and Conclusions

The analysis covered the following issues: (1) the powers and competencies of voivodship governments regarding offering a "Project of Assumptions to Plan the Heat, Electricity, and Gas Fuel Supply" (energy supply plan), (2) cooperation between voivodship governments and municipalities regarding energy supply and production, (3) vovivodship governments investigations regarding complicity of energy supply plans for municipalities to the energy policy of the state, (4) municipal planning of energy supply, (5) planning and financing lighting by municipalities, (6) municipal endeavors in the field of energy efficiency. In the presentation of the issues of local energy policy conducted by voivodship and municipal governments, a broader study of the "Project of Assumptions to Plan the Heat, Electricity, and Gas Fuel Supply" was not taken into account, i.e. there was no analysis of its main structure, elements and complete adoption procedure.

In this paper, the following research questions were addressed (1) To what extent do legal and institutional solutions affect the implementation of energy policy in Poland? (2) To what extent do the legal and institutional solutions efficiently work towards achieving the objectives set forth by local energy policies in Poland?

The subsequent conclusions were assigned to particular questions:

1. Conclusions to the first question

In literature, a frequently indicated problem is the status of the "Energy Policy of the State" as a document prepared by the Minister of Energy but adopted by the Council of Ministers. Accusations are also presented against the public energy policy and the political actions of particular political entities such as politicians, parties, public institutions etc. Therefore, it seems appropriate to have more efforts be made by political actors in order to achieve greater coherence in political and institutional activities, as well as greater consistency between documents, which are directly and indirectly related to the "Energy Policy of the State".

Current legal regulations are insufficient because they are inefficient in regard to establishing strategic objectives and implementing the in the sphere of the energy supply and production. A lack of accountability and evaluation of

the implementation of the state energy policy results in instrumental actions that are motivated by Poland's obligations to the European Union. Another negative factor might be the influence of various interest groups, especially those connected to conventional energy technologies. The consequence of which is a lack of coherent vision and coordinated actions in the field of energy policy which would connect the central government with local authorities.

When analyzing the subjective aspects of the state energy policy, the 2015 consolidation of energy-related departments into one distinguished Ministry of Energy should be considered. Poland's increasing commitments to the European Union in the field of energy and environmental protection require increased efficiency from the Ministry of Energy. Overlapping problems in the field of energy and environmental protection requires the Ministry of Energy to further consolidate competences belonging to various ministers. Problems related to energy and environmental protection still fall within the competences of the Ministry of the Environment. Unfortunately, subjective changes in the state energy policy at the central level have not affected local energy policy.

2. Conclusions to the second question

The organizational weaknesses of the central energy policy also result in problems associated with effective energy policy at the local level. The main legal and institutional instruments of local energy policy, excluding "local self-government laws," are determined in the same chapter of the Energy Law Act, as requirements addressed to the Minister of Energy in the field of creating "Energy Policy of the State". The main issues at the local level include: (1) ineffective instruments of the voivodship governments regarding the coordination of cooperation between municipal governments, (2) ineffective instruments and limited possibilities of the vovivodship governments regarding the verification of the compliance of municipal energy supply plans to the state energy policy, (3) lack of sufficient potential of the municipal governments to create comprehensive energy supply plans, (4) lack of sufficient potential of the municipal governments to comprehensively plan activities aimed at rationing energy consumption, (5) lack of sufficient potential of municipal governments to comprehensively assess the generation possibilities of high-efficiency co-generated electricity and energy efficient heating and cooling systems within the municipal territory.

The low organizational potential of many municipal governments results in the creation and adoption of energy supply plans being dependent on information, documentation, studies, etc. from energy companies. In the absence of their own specialized staff, municipal governments are forced to use external services for

such planning. This situation may give rise to suspicions regarding a conflict of interests occurring between the public and private spheres.

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Streszczenie

Przedmiotem analizy w tekście jest lokalna polityka energetyczna Polski w ujęciu instytucjonalno-prawnym. Punktem wyjścia do przeprowadzenia analizy jest próba zdefiniowania terminów „polityki energetycznej" i „lokalnej polityki energetycznej" na gruncie polskich regulacji prawnych. W dalszej kolejności w tekście zaprezentowano wybrane uprawnienia i kompetencje samorządu województwa i samorządu gminy (jednostek samorządu terytorialnego) w zakresie planowania zaopatrzenia w energię i współpracy w ramach lokalnej polityki energetycznej.

Głównym celem badawczym prezentowanej analizy jest chęć dokonania syntetycznego studium lokalnej polityki energetycznej. W celu uszczegółowienia problemu badawczego w tekście zaprezentowano następujące pytania: (1) W jakim zakresie rozwiązania prawno-instytucjonalne wpływają na efektywność realizacji celów polityki energetycznej w Polsce?, (2) W jakim zakresie rozwiązania prawno-instytucjonalne wpływają na efektywność realizacji celów lokalnej polityki energetycznej w Polsce?

Słowa kluczowe: *polityka energetyczna, lokalna polityka energetyczna, prawo energetyczne, polityka gospodarcza, polityka publiczna.*

Резюме

Предметом анализа в этой статье является локальная энергетическая политика Польши в юридическом и институциональном аспектах. Отправной точкой для анализа является попытка определить термины «энергетическая политика» и «местная энергетическая политика» на основе польских правовых норм. Далее в работе представлены избранные компетенции и полномочия воеводского самоуправления и самоуправления коммуны (подразделения местного самоуправления) в области планирования энергоснабжения и сотрудничества в рамках местной энергетической политики.

Основная цель представленного анализа - синтетическое исследование местной энергетической политики. Чтобы уточнить

проблему исследования, в работе были представлены следующие вопросы: (1) В какой мере юридические и институциональные решения влияют на эффективность целей энергетической политики в Польше? (2) В какой мере юридические и институциональные решения влияют на эффективность достижения целей местной энергетической политики в Польше?

Ключевые слова: *энергетическая политика, местная энергетическая политика, энергетическое право, экономическая политика, государственная политика.*

Анотація

Предметом аналізу в цій статті є локальна енергетична політика Польщі в юридичному та інституційному аспекті. Відправною точкою для аналізу є спроба визначити терміни «енергетична політика» і «місцева енергетична політика» на основі польських правових норм. Далі в роботі представлені вибрані компетенції і повноваження воєводського самоврядування і самоврядування комуни (підрозділу місцевого самоврядування) у сфері планування енергопостачання і співробітництва в рамках місцевої енергетичної політики. Основна мета представленого аналізу - синтетичне дослідження місцевої енергетичної політики. Щоб уточнити проблему дослідження, в роботі були представлені наступні питання: (1) Якою мірою юридичні та інституційні рішення впливають на ефективність цілей енергетичної політики в Польщі? (2) Якою мірою юридичні та інституційні рішення впливають на ефективність досягнення цілей місцевої енергетичної політики в Польщі?

Ключові слова: *енергетична політика, місцева енергетична політика, енергетичне право, економічна політика, державна політика.*

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THE ROLE OF LOCAL SELF-GOVERNMENT IN THE DEVELOPMENT OF PHYSICAL CULTURE AND SPORTS IN UKRAINE

Summary

Local self-government forms a significant part of the management mechanism which allows optimal combination of human interests and human rights. The consolidation of principles of democracy, creation of conditions for improving living standards, and stabilization of political systems contributes to the integrity of the country. Local self-government is a special sphere of society. It is an integral system of public relations related to the territorial self-organization of the population, which independently solves issues of local significance, and issues of functioning of local authorities. Local self-government can be considered as the foundation of our constitutional system, ensuring the rights of the population to an independent decision on issues of local importance as a fundamental form of democracy.

Key words: *local self-government, Ukraine, physical culture and sport*

The development of Ukrainian nationhood on the principles of democracy has objectively led to a rethinking of the place and role of local self-government in the system of public relations and stimulated a search for optimal variants of the model of government organization that would meet modern standards and ensure the rights, freedoms and legitimate interests of a person. Local self-government forms the most significant part of the management mechanism, which allows combining human interests and rights optimally. The consolidation of principles of democracy, creation of favorable conditions for improving living standards, and stabilization of the political system all contribute to the integrity of the country. Local self-government is a special sphere of society. It is an integral system of public relations related to the territorial self-organization of population, which independently solves issues of local significance, issue of functioning of local authorities. Local self-government can be considered as a basis of constitutional system, right of population to an independent decision of issues of local importance and as a form of democracy.

Local self-government in Ukraine is a right guaranteed by the state and attributed to territorial communities – they are an existing village or areas

voluntary consolidating into the village community of residents of several villages, townships, cities – independently or under the responsibility of local government bodies and officials – for solving issues of local significance within the ambit of the Constitution and Laws of Ukraine. Local self-government, reflecting political, geographical, social and economic, historical, national and cultural peculiarities of certain territorial units, contributes to their individuality, thus increasing a resident's sense of belonging to a certain territorial community, which can be of strategic importance in the process of social integration and political mobilization of society.

Under current conditions of development in the Ukrainian society, the extensive support of the field of physical culture and sports by the state still seems relevant. Physical culture and sports is a part of state's social policy, one of the sides of the general culture of a person, contributing to his/her healthy lifestyle. The level of development of physical culture and sports in society determines the authority of the state, and testifies to its ability to solve social and economic, educational and recreational tasks.

The issues of physical education in the system of state management and in the management system as a whole have been studied by a number of national scientists. Among them we point out the studies of E. Vilchkovskyi (Vilchkovski, Kurok, 2008; Vilchkovski, Kozlenko, Cvek, 1998), L. Volkova (Volkov, 1999), T. Krutsevych (Krucevich, 1999), I. Popesku (Popesku, 1999), L. Sergijenko (Sergijenko, 2008), B. Shyian (Szyjan, 2008), O. Vaceba (Vaceba, 2000), in which only in the generalizable context the main issues of the problem were reflected. The interesting surveys were carried out by A. Sokolov (Sokolov, 1999), O. Kuzmenko (Kuzmenko, 2011). In general, it should be pointed out that at the present stage there are still not enough special surveys devoted to the organizational and legal issues of the development of physical culture and sports.

One of the problems, actualizing the necessity of our research, is disintegration of the system of state management of physical culture and sports, which began after the collapse of the USSR. The complexity of the problem to a great extent is caused by the imperfection of legislation in the field of physical culture and sports, which makes it impossible to eliminate the existing differences and contradictions between the centre and the regions, between state and public sports organizations and associations, and finally – between individuals and society as a whole.

"Today, issues related to the competence of local self-government are regulated by about 700 laws and more than three thousand regulatory legal acts, and some of them include regulations that cause conflicts both within these legal

acts and between the acts themselves. Constitutional reform necessitates making amendments in some of these documents, which will take some time. In order to lay a reliable constitutional and legal foundation for effective functioning of local self-government and facilitate relevant changes, it is necessary to resolve them and agree upon a number of methodological tasks and, as a result, to clearly define the following: basic concepts, paradigms and theories of local self-government that will serve as a basis for choosing and legal confirmation of a model of its implementation in Ukraine; subjects of local self-government (public authorities, organizations, etc.), functions of the task that should be implemented; how many and what kind of resources are necessary to implement the reform and definite functions of local government, etc." (Seriogin, 2014, p.72).

The development of local self-government is one of the major priorities for implementing administrative reform and establishing Ukraine as a democratic state. Without decentralization and reforming local self-government, it is impossible to overcome negative processes in socio-economic and cultural development in territorial communities and regions, and ensure a significant increase in the quality of life of the vast majority of Ukrainian citizens. "Local self-government is the most effective legal form of citizens' participation in solving issues of local significance. Insistence on high standards in relation to yourself and public authorities, and possessing the ability to use the whole potential of local government will promote the formation of the main components of the framework of civil society in Ukraine" (Sergeeva, 2014, p.403).

Today, the problem of effectiveness of local government is one of the most important. The main factor of competent governance is a clear distribution of powers and competence among all the governmental bodies both horizontally and vertically, as well as between public authorities and local governments. An important aspect of territorial development is vesting the local self-government bodies with powers within their responsibility, which has to be provided by law.

The decentralization of powers (delegating a significant part of the powers of the authorities to the regional and local levels) is the best means of ensuring effective local self-government and providing high-quality services to the population. In this regard, one can determine the main issues that require prompt action:

- vesting the local self-government bodies with larger powers, thereby they will become a real catalyst of territorial development and expression of community interests, self-organization and self-government

- clear definitions of functions and division of powers between local self-government bodies and local state administration

- development of a proper system of responsibility and control, including provision of local state administrations with control and supervisory functions only for compliance with legislation by local self-government bodies.

With the decentralization of economic and financial policies, the role of regions in determination of social life conditions, ensuring the effective development of productive forces shall meet the diverse interests of society. The effectiveness of political decentralization is conditioned upon providing territorial communities with certain competences and the ability to form their own governing bodies. The principles of the European Charter of Local Self-Government are a guiding light in this process, helping to form principles of local self-government in Ukraine, which may be the most important and difficult task in establishing Ukraine as a democratic state. Without reforming the local self-government and without implementing the decentralization processes it is impossible to overcome negative processes in socio-economic, and cultural development within territorial communities and regions, and to provide a significant increase in standard of living of the vast majority of Ukrainian citizens. Y. Krehul and V. Batymenko consider that local self-government is an important element of the political system of society, which, along with recognizing the interests of the individual, recognizes the interests of the state, ensures recognition and guarantee of local and regional interests, interests of territorial communities connected with solving the issues of non-governmental life support of the population in the society (Kregul, Bratymenko, 2016, p.16).

“In the communities (e.g. townships, villages, cities, consolidated into one territorial community – the basic level) there exist elective bodies of local self-government – councils and village, township, city head (mayor) with one or several deputies. Council and mayor may be elected by the population: they separately vote for council members, separately - for mayor. The mayor and his deputies may also be elected by the council of a village, township or city, as in France. Sometimes a council elects a collegiate body: in Poland - a governing board headed by the elected Woyt. Some other variants of administrative and territorial units exist at the regional (associate) level, such as at the regional and district level (in Ukraine, for example)” (Naulik, 2010, p.71). The local councils, independently and within the limits of the law, solve issues that are not within the scope of central or state bodies. The center’s work is carried out then monitored through financial audits (the main part in financing local expenditures is formed, as a rule, not by local taxes and fees, but by state budget subsidies), ministerial inspections (inspections are carried out by the authorized persons of the Minister of Local Self-Government), judicial control (central authorities may apply to the local courts with claims).

The main directions of local self-government reform and decentralization of power are currently defined in the Concept of reformation of local self-government and territorial organization of power in Ukraine. As a result of reformation of local self-government and decentralization of power, the united territorial communities will be the basis of new system of local self-government, which are formed on a voluntary basis in accordance with the legislative procedure with their own bodies of self-government, including executive bodies of councils. In localities where residents haven't received the status of a territorial community, the population can self-organize and become part of the system of local government bodies of the respective territorial community. The analysis of the provisions of the Constitution of Ukraine and the Law of Ukraine "On Local Self-Government in Ukraine" makes it possible to draw the following conclusions:

1. The Constitution of Ukraine provides the right of its citizens to solve issues of local importance independently and at the sole discretion of the primary territorial communities, i.e. administrative-territorial units, i.e. settlements (villages, several villages, townships and cities). Such an approach to defining the range of subjects under the jurisdiction of local self-government has deep historical roots. It was in the settlements that people were naturally grouping together for living together, discussing the problems of life on the stairs, and conducting general meetings, and for bringing some order to those meetings they elected the officials - leaders, elders, councils and others. Thus, a community was formed, the distinctive feature of which is the presence of elected bodies, and such a system was called a public, communal, local or municipal self-government.

2. The Constitution and Law provides that the right of a territorial community to local self-government can be exercised by the community through direct forms of democracy (local elections, general meetings, etc.), and through the work of elective and other bodies of local self-government. In the Law of Ukraine "On Local Self-Government in Ukraine" of May 21st, 1997 both the concept of "system of local self-government" and the list of its constituents were introduced. The following elements were included in the system of local self-government: territorial community; village, township, city council; village, township, city mayor; district and regional councils representing the common interests of territorial communities of villages, townships, cities; executive bodies of the village, township, city council; bodies of self-organization of the population (Pro misceve samovriaduvannia v Ukraini, 1997).

An important theoretical and practical issue is found in the definition of the terms "local government" and "local management". On this issue in the

literature, different and sometimes totally opposite views are expressed. Most scholars oppose local government and local management. Thus, if local self-government is understood as the activity of a territorial community and its elected bodies for managing its affairs, then local management is regarded as administrative activity in the administrative-territorial unit, carried out through the administration appointed by the central or other higher authorities of local state government bodies (Kovaliv, Ivacha, 2015, p.47) .

The recognition of territorial communities as the primary unit of local self-government, the main bearer of its functions and powers, granting a qualitatively new status to local councils and the formation of individual institutions of local self-government - rural, township, city heads – has changed not only the mechanism for exercising public power locally, but also the political system of the whole society. Considering the question of legal foundations of territorial communities, it is hard to miss a key point – their functions. The functions of territorial communities are to give purpose and directions for these collectives and ensure the right of citizens to participate in local governance, express the will and interests of local residents, and ensure building relations with the state, its bodies, and subjects of local self-government within the Constitution and laws of Ukraine.

The formation of representative bodies of local self-government under the acting proportional system gave rise to a separate set of problems:

- unjustified representation (or even its absence) of territorial communities in district and regional councils;

- limited access of voters to information on specific individuals elected to the representative bodies of local self-government on party lists (closed list system)

-dominance of business circles in the councils by means of reducing the number of representatives of social and cultural sphere and their interests when making decisions by the council;

- reduced direct connection of local deputies with the population, creating a gap between the real needs of voters and local politics;

- politization of representative bodies of local self-government, their excessive attention to issues of national, not local significance, inhibiting the development of an effective policy for local development.

According to the current legislation of Ukraine, regional and district councils represent the common interests of territorial communities of cities, villages and countries and form the greater part of the local self-government system. Regional and district councils cannot perform their functions effectively, as they do not have their own executive bodies, and local state administrations

assume authority. This gives ground for the experts of the Council of Europe to claim that there is no complete regional government in Ukraine which is a violation of the European Charter on Local Self-Government. "The powers of local self-government bodies representing the common interests of the territorial communities at the district and regional level for the establishment of their own executive structures contribute to the decentralization of state executive power and the expansion of the rights of local self-government" (Galaj, Sereda, 2000, p.145).

"The economic functions of territorial communities are aimed at creating a local sector of the economy. They include the following: consideration and solution of economic issues of local significance, activities concerning establishment, reorganization and liquidation of municipal enterprises, as well as control over their activities; implementation of economic development programmes of the corresponding administrative-territorial units; approval of budgets of the corresponding administrative-territorial units and control over their implementation, etc." (Malyszko, 2010, p.62). The implementation of the local self-government reform should be followed by creation of a clear, comprehensible, sufficient territorial basis for the activities of local self-government bodies with a clear division of powers between local government bodies and executive authorities, as well as representative bodies of local self-government. In this regard, all local governments established on a new territorial basis the following should be applied:

- uniform powers to provide social and administrative services in accordance with social standards as established;
- direct communicative relations with the central authorities;
- uniform system of statistical reporting (Kujbida, 2015).

State support is a starting point for creating a new territorial basis for effective local self-government, which has to change the outdated Soviet model. Ukraine needs to implement this reform in order to build a real European state. The state has to support local self-government politically by creating not only financial and economic support, but also constitutional, organizational, and legal guarantees for local government's effective functioning.

"The current state of reforming local self-government in Ukraine should be based on the positive experience of developed European countries, in consideration of their own national peculiarities and maximum satisfaction of the needs of citizens. The decentralization and development of the modern system of local self-government has become the main component of the reform's implementation in the Eastern Europe. It is necessary to turn to the experience of Poland, which is a high-priority for reforming local self-government in

Ukraine, as these states not only have a common border, but also close historical and cultural ties. In the process of reformation, the study of the experience of functioning of the Poland's territorial communities is important for Ukraine, as it would give the opportunity to borrow norms and models in the area of functioning of territorial communities, to determine their advantages and disadvantages" (Rudnycka, 2001, p.209).

Ukraine is carrying out a complex democratic transition to a politically organized, responsible society of a new quality, in which the level of business activity and political participation of citizens, enforcement of their rights and freedoms is gradually increasing, and a new structure of social space is being formed. The main condition for the democratic development of our country is the establishment and successful development of civil society institutions. The improvement of local self-government at the present stage is an important part of the process of reforming the system of public authority in Ukraine. Further development of local self-government requires adoption of a number of new legislative acts and the introduction of appropriate changes in the current ones. Local self-government involves all the citizens of Ukraine as residents of certain administrative-territorial units, and secondly, all reforms implemented in Ukraine – political, economic, etc. – are either directly implemented locally or have access to the local level. Thus, local self-government, reflecting political, geographical, social and economic, historical, national and cultural particularities of theses or those territorial units, contributes to establishing their individuality, thereby reinforcing the sense of an individual belonging to a particular territorial community, is of strategic importance in the process of social integration and political mobilization of society.

An important task of state policy in the field of physical culture and sports is the formation of an optimal field management model, where competence and powers of all the subjects of physical culture and sports activity would be clearly divided and agreed at the national, regional and local levels. The practical application of legal framework and the evaluation of results of this work, requires certain mechanisms that are still at the earliest stage of development. The legislative framework for the development of large scale physical culture and sports of high achievements is quite closely connected with the laws on education, social welfare, health care, entrepreneurship, and local self-government, and therefore presents obstacles for those who are trying to exercise their rights to be engaged in physical culture and sports activities, to preserve health by means of an active way of life. It seems obvious that to remove these obstacles, the management of physical culture and sports has to be divided into three functional clusters: nationwide level, regional and local. The

present system has to be re-formed from the bottom to top, which would allow more effective consideration of the interests and needs of the citizens.

The Law of Ukraine "On Local Self-Government in Ukraine" defines the system and powers of local self-government bodies in the field of physical culture, sports and tourism, and establishes the responsibilities of executive bodies of village, community, city councils including: management of physical culture and sports institutions, health institutions, youth, adolescent institutions at the place of residence, and organization of their technical, financial and administrative support. The self-government bodies are charged with the issues of organization of medical service and nutrition in the institutions of physical culture and sports, creation of conditions for physical culture and sports activities at the place of residence and at the places of mass recreation; and according to the current legislation, the registration of the statutes (provisions) of institutions of physical culture and sports, regardless of the forms of ownership.

According to the main provisions of the Law of Ukraine "On Physical Culture and Sports", the National Doctrine of the Development of Physical Culture and Sports, as well as the general concept of the development of the Ukrainian society, the mission of physical culture and sports provides for creation of conditions for comprehensive development of personality, and optimal physical activity of every person in a socially and economically developed society. Taking into account the fact that the field of physical culture and sports affects the social and economic aspects of human life and exists under the conditions of a market economy, it is reasonable, in our opinion, to use a systematic approach to the development of strategic measures of the organizational and economic mechanisms of management of physical culture and sports in Ukraine. According to the State Programme for the Development of Physical Culture, Sports and Tourism, the executive committees of local councils with the participation of structural subdivisions of ministries and departments locally have been developing the regional programmes for the development of physical culture, sports and tourism.

In their turn, local councils are authorized to introduce a system of incentives and encouragements for enterprises to spend part of their profits for the development of physical culture and sports, such as construction of sports facilities, and organizing recreational activities. The coordinating role in the implementation of state policy in the field of social formation and development of youth is carried out by a specially authorized central executive body, which ensures its realisation and is responsible for its implementation.

It is characteristic that only 13% of the population is involved in physical culture and sports. According to this indicator, Ukraine is considerably inferior

to such countries as Finland, Sweden, Great Britain, Czech Republic and Germany. According to the integral indicator of the health of population, which is an average life expectancy, Ukraine takes one of the last places in Europe; and there is the problem of sports development of higher achievements developing national teams also requires immediate decision. The current situation in the field of physical culture and sports was caused by the following factors: non-conformity of the legal and regulatory framework in the field of physical culture and sports with the modern requirements; non-conformity of the infrastructure for physical culture and recreation in terms of production, teaching and educational, social and domestic spheres; imperfection of system for centralized training of national teams, low level of financial and material support of sports for children and youth and reserve sports; low level of scientific support for the development of physical culture and sports, underfunding of scientific research (less than 0.5% of the state budget expenditures are spent for physical culture and sports); insufficient promotion of healthy lifestyle, insufficient involvement in sports for children and youth and reserve sports; unsatisfactory material and technical base. The level of provision of sports halls and gyms for the population in Ukraine (at the rate of 10 thousand people) is 2-3 times lower than in leading countries, of swimming pools – 30 times. More than 80% of sports grounds do not meet the current requirements; they are underfinanced (0.6% of funds are allocated from the state budget, 2% from the local budget), ineffective off-budget funding, insignificant amount of investments; (no state sports lotteries are held, which are one of the main sources of sports financing in many European countries); disbalance of the system of training and professional development of specialists, low salaries, insufficient quantity of instructors in physical culture and recreation activities (1 physical training worker for 600 Ukrainians) (Gorbenko, 2009, pp.239-241).

In our opinion, the key elements of the problems of the state policy of Ukraine in the field of physical culture and sports are: absence of a clearly formulated and scientifically proven concept of this state policy and low efficiency of its legal regulation. The basic principles of forming physical culture and sports in our state have to be determined: validity, objectivity, systematic city. The formation of state policy should be carried out using four groups of resources: resources of the authorities, financial resources, social and technological resources, resources of public support.

At present it is reasonable to propose a scheme of interaction between different levels of state management during the formation of management functions. It is important to proceed from the priority of the territorial principle on the basis of self-government of local sports organizations.

Nationwide level:

- development of an integrated strategy of state policy for the development of physical culture and sports under modern social and economic standards;
- implementation of the main provisions of the state target programme for the development of physical culture and sports;
- inter-sectoral coordination and functional regulation in the field of physical culture and sports;
- development of the integral legal and regulatory framework for support of physical culture and sports movement, professional sports, and sports of higher achievements;
- creation of scientifically grounded system of health improvement and physical education of the population;
- development and implementation of target programmes for the development of physical culture and sports, taking into account the main kinds of activities;
- personnel training and retraining;
- provision of preparation and participation of teams in international competitions, including the Olympic and Paralympic Games;
- creation of conditions for the development of the sports industry and attraction of investments to the field of physical culture and sports;
- interaction of central authorities and local government bodies with public associations and other organizations;
- implementation of measures for mandatory certification of products and services in the field of physical culture and sports.

The prerogative of regional authorities and municipalities should be a well-defined, practical work plan aimed at the development of physical culture and sports activities. Their main task is to create conditions for involvement in physical culture and sports at the place of residence, in educational institutions, in work collectives among all age groups and categories of the population.

Regional level:

- improvement of regional powers in the field of physical culture and sports;
- formation of regional budgets taking into account the principle of priority of physical culture and sports work in the social policy of local authorities;
- development and implementation of specific regional and trans regional programmes and projects in the field of physical culture and sports, including the mass involvement of various groups of population in systematic physical education and sports.

Municipal level:

- development of effective systems of management and organization of physical culture and sports work at the local level on the basis of the accumulated experience of today;
- development of programmes for reconstruction and construction of educational and sports facilities of educational institutions, providing them with necessary equipment and inventory;
- organization of the construction of elementary sports facilities (sports grounds, etc.);
- expansion of centres of physical culture and sports leisure at the place of such as youth clubs, preschools, schools, educational establishments of vocational education, physical culture and sports complexes of enterprises and commercial entities;
- attraction of work collectives, heads of enterprises and institutions (on mutually beneficial terms) for to the construction of physical culture and sports facilities and complexes, to the use as intended of those that already exist;
- organization and carrying out of municipal review-contests for the best organization of mass physical culture, and recreational work at the place of residence, in educational establishments or in labour collectives;
- material and moral stimulation of all types and forms of physical culture and sports activities by leading athletes and work collectives of the city and district;
- promotion and support of sponsorship of educational institutions, boarding schools, children's and youth associations by sportsmen and students of sports universities;
- creation of material and sports base at the place of residence and development of mechanisms for financial encouragement for trainers-educators.

One of the key results of social and economic reformation in Ukraine is the attempt to decentralize management of society in general and physical culture and sports, in particular. The change from the administrative-command model of management to the democratic principles requires a scientific support of these difficult transformation processes and the rapid pace of life tells us that in the field of physical culture and sports, legislation has to be constantly reviewed and improved. Legislation should provide favourable conditions for establishments that implement programmes for the development of physical culture and sports among children, disabled persons and orphans, which contributes to a healthy lifestyle; encourages sponsors and investors who spend their money for training sports reserve and national teams for participation in the Olympic and Paralympic Games.

Moreover, finalization laws connected with the following urgent issues has to be made:

- fight against doping and drugs use by sportsmen; provide security at sporting competitions, which could reduce actions by individual fans during sporting contests, expressions of cruelty and acts of violence, as well as other unlawful actions negatively affecting individuals and society;
- solution of issues related to mass drop off of national sportsmen and specialists abroad;
- statement of problem of early sports specialization of children, participation of children in the sporting competitions that stimulate forcing of sports training to the detriment of child's health and normal development;
- use a comparative analysis and connect world experience with state support of public sports organizations;
- solution of legal and regulatory issues related to sponsorship, involving extra-budgetary sources of funding by amending the corresponding laws.

The disadvantages of low-level physical education and development of sports among adolescents, children and young people can be explained by a set of unresolved issues, among which are the following: poorly developed material and technical base; limited quantity of class hours assigned for compulsory physical education; certain omissions in the professional training of pedagogical staff in the content and forms of fitness and health activities, especially among preschool children; focusing of pedagogical activity on quantitative indicators; deficiency of traditions of family physical activities; inconsistency of actions of public educational bodies, health care establishments, physical culture and sports institutions, etc. Unfortunately, the necessary material and technical infrastructure of physical culture, mass sporting activities at the place of study, work, residence and recreation of population have not been formed yet in Ukraine. Actually, there is no national sports industry aimed at producing high-quality sports uniforms, inventory and equipment that would be able to compete with the leading manufacturers of such products in the developed countries.

Today, the issues of reconsidering a role and place of the state, as well as local self-governance in the development and improvement of the efficiency of the physical culture system in terms of ensuring the health of the nation, and the effectiveness of the functioning of the sport, are coming to the fore. M. Turbina believes that over the last decade, sports in Ukraine has had to face many different problems, including: deficiency and imperfection of the legislative framework, non-conformity of the system of sports management with the fundamentally new conditions of development of the field, constant reorganization of the state governing body in the field of physical culture and sports, deficiency of a clear

division of functions between various public and social organizations, economic crisis (Turbina, 2011, p.33). It turned out to be unjustified that most federations were transferred to self-sufficiency, which led to the need of establishing management structures in each federation (a kind of mini-sports committees), caused a multiple increase in the number of managerial and service staff of central units and, as a result, a significant increase in funding for their maintenance.

Our analysis of the situation has shown that the public and local self-government authorities, despite certain disadvantages in their work, are a guiding and an organizing force that is able to make decisions and implement them. Transfer of powers from the state to the territories at the regional and local levels is a matter that should be given high priority. Thus, creating management structure for physical culture and sports, improving its functional effectiveness and reforming the legal and regulatory framework are some of the most important challenges, the solution of which will increase the massiveness of physical culture and sports movement in Ukraine. Awareness that the future of any country is determined by the health of members of society in these days has led to the understanding of the need to increase the role of physical culture and sports in the activities of the state and the public, as well as to the active use of physical culture and sports in maintaining and promoting health of the population. Today, the role of sport becomes not only an increasingly visible social factor as well as a political factor. Involving large sections of the public in physical education, public health and success in the international arena are indisputable evidence of the vitality and spiritual strength of each nation, and its authority on the international arena.

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Streszczenie

Samorząd terytorialny stanowi najważniejszą część mechanizmu zarządzania, pozwala optymalnie godzić interesy i prawa człowieka. Umacniając fundamenty demokracji, tworząc warunki aktywności życiowej ludzi, stabilizując system polityczny, rozwijając kulturę fizyczną, sprzyja on zabezpieczeniu jedności państwa. Samorząd terytorialny można postrzegać jako fundament ustroju konstytucyjnego, prawa ludności do samodzielnego rozwiązywania problemów o znaczeniu lokalnym, formę władzy demokratycznej.

Od efektywnego samorządu terytorialnego zależy rozwój kultury fizycznej i sportu na Ukrainie. Istniejąca struktura zarządzania kulturą fizyczną i sportem, efektywność jej funkcjonowania, fundament normatywno-prawny stanowią najważniejsze problemy, których rozwiązanie pozwoli zwiększyć masowość ruchu fizyczno-sportowego na Ukrainie. Na dzień dzisiejszy istniejące niedostatki w zakresie wychowania fizycznego i rozwoju sportu wśród nastolatków, dzieci i młodzieży można objaśnić kompleksem nierozwiązanych zagadnień. Niestety, do tej pory nie stworzono infrastruktury materialno-technicznej niezbędnej do prowadzenia działalności w zakresie kultury fizycznej, zdrowotności oraz umasowienia sportu w miejscu nauki, pracy, życia i odpoczynku społeczeństwa.

Praktycznie nie istnieje rodzimy przemysł sportowy zorientowany na wytwarzanie wysokiej jakości odzieży sportowej, sprzętu i urządzeń, które mogłyby stanowić konkurencję w stosunku do liderów odpowiedniej produkcji w państwach rozwiniętych.

Tym samym aktualnie na Ukrainie koniecznym jest zwiększenie roli kultury fizycznej i sportu w przestrzeni działalności państwa i społeczeństwa, a także aktywne wykorzystanie kultury fizycznej i sportu w zakresie wspierania i poprawy zdrowia ludności.

Słowa kluczowe: *samorząd terytorialny, Ukraina, kultura fizyczna i sport*

Резюме

Местное самоуправление составляет важнейшую часть механизма управления, позволяет оптимально сочетать интересы и права человека. Укрепляя основы народовластия, создавая условия жизнедеятельности людей, стабилизируя политическую систему, развивая физическую культуру и спорт, оно способствует обеспечению единства страны. Местное самоуправление можно рассматривать в качестве основы конституционного строя, права населения на самостоятельное решение вопросов местного значения, формы народовластия.

От эффективного местного самоуправления зависит развитие физической культуры и спорта в Украине. Действующая структура

управления физической культурой и спортом, эффективность ее функционирования, нормативно-правовая основа, являются важнейшими проблемами, решение которых позволит повысить массовость физкультурно-спортивного движения в Украине. На сегодняшний день имеющиеся недостатки физического воспитания и развития спорта среди подростков, детей и молодежи, можно объяснить комплексом нерешенных вопросов. К сожалению, до сих пор в Украине не сформирована необходимая материально-техническая инфраструктура физкультурно-оздоровительной и спортивно-массовой работы по месту учебы, работы, жительства и отдыха населения.

Практически отсутствует отечественная спортивная индустрия, направленная на производство высококачественного спортивной формы, инвентаря и оборудования, которая могла бы составить конкуренцию ведущим производителям такой продукции в развитых странах.

Таким образом, на современном этапе в Украине необходимо усиление роли физической культуры и спорта в деятельности государства и общественности, а также активное использование физической культуры и спорта в поддержании и укреплении здоровья населения.

Ключевые слова: *местное самоуправление, Украина, физическая культура и спорт*

Анотація

Місцеве самоврядування складає найважливішу частину механізму управління, що дозволяє оптимально поєднувати інтереси і права людини. Зміцнюючи основи народовладдя, створюючи умови життєдіяльності людей, стабілізуючи політичну систему, розвиваючи фізичну культуру і спорт, воно сприяє забезпеченню єдності країни. Місцеве самоврядування – це особлива сфера життя суспільства. Воно є цілісною системою громадських стосунків, пов’язаних з територіальною самоорганізацією населення, що самостійно вирішує питання місцевого значення, питання функціонування місцевої влади. Місцеве самоврядування можна розглядати в якості основи конституційного ладу, права населення на самостійне рішення питань місцевого значення, форми народовладдя.

Від ефективного місцевого самоврядування залежить розвиток фізичної культури та спорту в Україні. Діюча структура управління фізичною культурою і спортом, ефективність її функціонування, нормативно-правова основа діяльності залишається однією з найважливіших проблем, вирішення якої дозволить підвищити масовість фізкультурно-спортивного руху в Україні. На сьогоднішній день наявні

недоліки фізичного виховання і розвитку спорту серед підлітків, дітей та молоді, які можна пояснити комплексом невирішених питань. На жаль, до цього часу в Україні не сформовано необхідної матеріально-технічної інфраструктури фізкультурно-оздоровчої та спортивно-масової роботи за місцем навчання, роботи, проживання і відпочинку населення. Практично відсутня вітчизняна спортивна індустрія спрямована на виробництво високоякісного спортивної форми, інвентарю та обладнання, яка була б здатна скласти конкуренцію провідним виробникам такої продукції у розвинутих країнах.

Усвідомлення того, що майбутнє любої країни визначається здоров'ям членів суспільства, останнім часом привело до розуміння необхідності посилення ролі фізичної культури і спорту в діяльності держави і громадськості, а також до активного використання фізичної культури і спорту в підтримані та зміцненні здоров'я населення.

Ключові слова: *місцеве самоврядування, Україна, фізична культура і спорт*

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MODERN CONCEPT FOR THE DEVELOPMENT AND MONITORING OF REGIONAL AND LOCAL WASTE MANAGEMENT PROGRAMS

Summary

The article deals with the main theoretical and methodological principles of the development of regional and local programs. The main problems and gaps in the development of regional and local target programs have been determined, which negatively affects the quality of these programs and reduces their effectiveness. The essential characteristic of the concepts "a regional waste management program", "a local waste management program" has been presented. The main stages of the development of local and regional waste management programs have been identified. The role and essence of the theoretical provisions of the program-target method, the "problem tree" method, the "objectives tree" method have been determined and on their basis the examples of applying these methods have been developed. In addition, it has been proved that it is possible to solve the problem of inadequate preparation of regional and local programs by introducing the common standards and methodology for the development and functioning of regional and local target programs, as well as the special knowledge and training organized for civil servants involved in the development of target programs. It has been noted that the activity of local self-government bodies will be more effective if the directions, methods and forms of the development of local and regional target programs are substantiated scientifically, the theoretical and methodological provisions regarding the systematic approach to the formation of such programs are introduced as an object of management and the principles of analyzing the local problems for their anticipated solution are implemented. The prospects for further research in this area have been outlined, which involves determining the importance of strategic environmental assessment of plans and programs and integrating environmental initiatives into the planning process at the appropriate level.

Key words: *regional program, local program, waste management, "problem tree" method, "objectives tree" method.*

Introduction

The main tasks related to waste management in the context of decentralization should be implemented at the level of local authorities within the framework of their responsibilities for the organization, management, planning, coordination, control over the rational use and safe handling of waste in their territory.

The implementation of a complex of interrelated measures in the organizational aspect should be the task of management in the field of waste management at the local level. These measures should be for minimizing and preventing the generation of waste, increasing the amount of waste incineration into economic circulation, and identifying the best practices for handling specific types of waste generated in selected territories and industrial zones. Let us remind that waste management is the activities aimed at preventing the generation of waste, their collection, transportation, storage, treatment, processing, recycling, removal and disposal, including control of these operations and supervision of waste disposal sites.

The urgency of this research is determined by the need to overcome the negative trends in waste management by developing and implementing relevant regional and local targeted programs. Those who develop regional and local target programs do not always adhere to existing requirements, which negatively affects the quality of these programs and reduces their effectiveness. In particular, the following can be attributed to such gaps: the problem is not clearly defined and described, trends of changes are not presented, changes in forecasts are not being developed, the priority of problems is not proven; tasks and activities are mainly in line with the declared goal, but they are mostly declarative in nature.

Moreover, it is impossible to establish the relevance of the program to a specific problem. This is because the problem is not clearly formulated and is not substantiated, which makes it impossible to identify the causative hypothesis of the existence of the problem and to determine the purpose of the program for its solution, etc.

Analysis of recent research

The problems of regional and local planning are extensively researched. In particular, the theoretical foundations of strategic planning at the regional level are reflected in the works of V. Vakulenko and Y. Sharov. Moreover, O. Berdanova (Berdanova, 2006) and V. Mamonova (Mamonova, 2007) researched the question of strategic planning of cities' development. O. Makarova's works (Makarova, 2012, pp. 20-24) are devoted to the theoretical, methodological and applied aspects of state programs' evaluation. Such scientists as V. Grinev and M. Novikova (Grinova, Novikova, 2004, p. 23) investigate macroeconomic

planning as a process of developing plans. In addition, I. Mysasyuk, A. Melnyk (Myssyuk, Melnik, 2006) devote their works to the topic of strategic planning as a concentration of state resources on solving strategic problems. However, the question of the planning stages, in particular the clear definition of the problems of each individual region or area, and the specification of the development of goals, from which the effectiveness and effectiveness of the implementation of programs in the future depend on, is, in most cases, not sufficiently disclosed.

Research goals

The aim is to determine the scientific and theoretical provisions for the development of regional and local waste management programs, to establish the benchmarks for local state administrations, local authorities and local self-government bodies, and to identify areas for developing measures in regional and local waste management programs to accelerate the reform and development of this sphere.

Problem statement

To provide the essential characteristic of the concepts "a regional program" and "a local program", determine the role and essence of the theoretical provisions of the program-target method, the "problem tree" method, the "objectives tree" method and on their basis develop the examples of applying these methods, identify the main stages of the development of local and regional programs.

Methodology

The scientific methods of enquiry, general scientific principles, and the groundwork in the field of waste management have become the theoretical, scientific and methodological basis for the research. The following scientific methods have been used to solve the set tasks: the program-target method, the SWOT-analysis, the "problem tree" method, the "objectives tree" method.

Results

When the society has a serious problem that requires an immediate response and can be solved by consolidating the efforts of local authorities and waste management providers [1], the developer should start with an analysis of the causes and possible ways of solving the problem. To assess the situation in the society and identify the problems that concern its residents, prior to the development of the Program, it is necessary to assess the needs carefully. To assess them better, it is necessary to conduct an appropriate study and select the research tool that will be the most effective for the relevant administrative and territorial unit or region.

After identifying the problem that needs to be solved for the administrative and territorial unit or region, it is necessary to determine the most rational

[1] Providers are institutions or organizations that provide waste management services

way of its solution. For this, an analysis of alternatives should be carried out. The criterion for such an analysis may be the use of monetary, material, time resources. The decision that will be the most optimal while taking into account all these factors should be the basis for the development of the Program. In addition, it is necessary to find out who and how tried to solve the problem before. In order to reduce the influence of the subjective factor in the development of the Program, it is necessary to work on it in the working group, which would include the interested persons, colleagues who are directly related to the problem of waste management (Hryb, Yeroshenko, 2017, p. 7-8). To formulate the program framework correctly, it is necessary to understand what target programs can be.

The legislation of Ukraine gives local authorities, local self-government bodies the power to develop target programs. The structure and principles for the development of target programs in Ukraine are regulated by the Law of Ukraine "On State Target Programs", the Decrees of the Cabinet of Ministers of Ukraine and the Orders of the Ministry of Economy and European Integration of Ukraine.

It should be noted that regional and/or local waste management programs are prepared in accordance with the main principles of the development of state target programs specified in the Law of Ukraine "On State Target Programs", the Regulations of the Cabinet of Ministers of Ukraine No. 22-r of January 3, 2013 "On Approval of the Concept of the National Waste Management Program for the Period of 2013-2020", the recommendations approved by the Order of the Ministry of Economy of Ukraine No. 367 of December 4, 2006 "On Approval of the Methodological Recommendations on the Procedure for the Development of the Regional Target Programs, Monitoring and Reporting on their Implementation" and the Order of the Ministry of Construction, Architecture and Housing and Communal Services of Ukraine No. 2 of January 10, 2006 "On Approval of the Recommendations on the Preparation of Local Solid Waste Management Programs".

In our research, we consider it necessary to define the concepts of the "regional program" and the "local program", taking into account the provisions of the Law of Ukraine "On State Target Programs", as well as the concepts of the region (for the regional program) and the administrative and territorial unit (for the local program). Therefore, a state target program is a set of interrelated tasks and activities aimed at solving the most important problems of the development of the state, certain branches of the economy or administrative and territorial units, that are implemented using the State Budget of Ukraine and agreed upon the terms of execution, the composition of performers, resource provision (Law 1621-IV, 2004).

The concept of the region is defined as the subject of the system of administrative and territorial structure, like the Autonomous Republic of Crimea, the region, Kyiv and Sevastopol cities. Accordingly, the regional waste management program is defined as a set of interrelated tasks and measures agreed upon by the terms and resource provision with all the involved executors, aimed at solving waste management problems in the region, the implementation of which is carried out at the expense of the local budget and other sources and is a part of the annual program of social and economic development of the region.

It should be further noted that under the notion of the administrative and territorial unit some researchers understand part of the territory of the state, on the basis of which the functions of the state, including local self-government, are realized (Sakhanenko, 2001, p. 47; Tretiak, 2004, p. 13; Lazor, 2007, p. 236). At the same time, the Law of Ukraine "On Local Self-Government in Ukraine" does not provide a thorough definition of the concept of the administrative and territorial unit, indicating only those types that operate in Ukraine: "a region, a district, a city, a district in the city, a town, a village" (Law 280/97 -VR, 1997). S. Sakhanenko adds to the definition of the administrative and territorial unit such system attributes as "boundaries, a name, a permanent centre, where the functions of the state are exercised by both the state authorities, ... and local self-government bodies in the part that is delegated by the state" (Sakhanenko, 2001, p. 47).

To define the concept of a local program, the administrative and territorial unit will be marked as a compact part of the unified territory of Ukraine, which is the spatial basis for organizing and carrying out the activities of the state authorities and local self-government bodies, in particular: a district, a city, a district in the city, a united territorial community, an urban type settlement, a village. Consequently, a local waste management program is a set of interrelated and time-coordinated measures: organizational, technological, technical, resource-saving, environmental, sanitary and hygienic, financial and economic, social, informational, educational, etc., aimed at solving the problems of in the sphere of waste management within the administrative and territorial unit, the implementation of which is carried out at the expense of the local budget and other sources.

Household waste management is particularly important at the local level. In this case it is very important to ensure the creation of the household waste management infrastructure, to introduce new, modern, highly-efficient methods for collecting, storing, removing, recycling, disposing, destroying and dumping the household waste in accordance with the modern environmental protection requirements, as well as to take measures for implementing the integrated

recycling and utilization of the resource-valuable components and the efficient use of waste as an energy resource.

The above-mentioned approaches to solving the waste issue should be ensured through the introduction of the program-target method. The program-target approach involves ensuring the concentration of financial, logistical, other resources, production, scientific and technical potential, as well as coordination of the activities of central and local executive authorities, enterprises, institutions and organizations to solve the most important problems.

We agree with O. Makarova that the success of the program implementation is largely determined by the quality of its development, which depends on the competence and professionalism of the developers, the quality of the input information and the use of modern methods and tools in substantiating program activities, alternatives and determining the expected results (Makarova, 2012 , p. 24).

Thus, let us define the main stages that the scheme of developing the program in general terms includes:

- *Defining and analyzing the problems (building the "problem tree")*

At this stage, it is proposed to justify the urgency of the waste management problem, identify the problem clearly and define the ways and means of solving the problem, as well as the need for funding at the expense of the local budget. Defining the problem is the basis for stating the objective and formulating all other sections of the program.

SWOT analysis is most often used to determine the qualitative parameters of the local development. It allows identifying the strengths and weaknesses of the respective territory in the first approximation, as well as the external chances and risks of its further development. This method gives the first idea of the important economic, social and political parameters that are important for local development, the detailed analysis of which is carried out by applying additional analytical methods.

The SWOT analysis methodology makes it possible to combine the important internal qualitative characteristics of the organization (strengths and weaknesses) with the results of research of the external conditions (chances and risks) (see Table 1). The analysis of the strengths and weaknesses of the planning object highlights more deeply what qualities need to be increased and expanded, and which trends in the development process require correction.

During this phase, the focus should be on analyzing problems and various subreasons of the problems. Sometimes the problem, as well as its subreasons, may seem obvious, but with the more detailed analysis, the situation may look more complicated.

The local / executive authorities (the LA / the EA) should be interested in using the "problem tree" method. The "problem tree" method is a simple but effective method that is used to divide problems into smaller parts and identify the subreasons of the problems.

The "problem tree" method is easy to use within group work. The LA / the EA may involve experts from different departments, agencies, and various stakeholders [1] to participate in doing the task in order to get different points of view on the issue. The "problem tree" method also allows you to move from problem analysis to finding solutions.

Table 1.

SWOT Analysis (on the Example of the Waste Management Analysis)

Strengths	Weaknesses
Public awareness of the urgency of solving the waste issue	Lack of funding for waste management activities
Basically, the legal and regulatory framework for waste management has been established	The extremely slow pace of implementing practical measures to address the waste issue at the regional and local levels
The organizational, technological, and economic conditions for the practical solution of the waste issue began to be created	Lack of the legal and regulatory provisions to stimulate the waste management activities
There is a considerable production, scientific and technical, entrepreneurial potential, oriented towards solving waste management problems	Inadequate infrastructure of waste management and lack of experience in applying modern methods of processing industrial and solid household waste
The separate elements of market infrastructure have been created and are working, and enterprises of various forms of ownership are involved in the sphere of waste management	Lack of scientific, technical, production potential of the region to address the priority tasks of waste management
International assistance in solving the waste issue	Uncontrolled storage of hazardous waste on the territory of enterprises in the past, lack of specialized landfills (centres, complexes) for destroying and disposing the waste

[1] Stakeholders are people, institutions or organizations, the state and interests (professional, social, financial, etc.) of which may change as a result of your activities

The accumulated experience of applying the program-target method for solving the waste issue	The energy and raw material specialization of the region's economy, the high proportion of resource and energy-intensive technologies
The active position of the media on the waste issue	Lack of public awareness about the importance of proper solution of the waste management issue
Opportunities	**Threats**
Implementing the integrated and balanced state policy on waste issue at all the levels of government (state, regional, local)	The inconsistency of the management in various aspects of waste management
Using cleaner technologies that reduce waste generation and related risks, regulatory control of waste generation	The increase of the negative impact of waste on the environment and human health
Gradually decreasing the rate of waste generation with the subsequent reduction of their amount, reducing the amount of waste that is dumped in landfills	The deterioration of the environmental situation due to the negative impact of waste, the increase of land area for waste disposal
Technical re-equipment of the production complex on the basis of the innovative model of technological development	Further growth of the amount of formation and accumulation of waste due to outdated technologies and high material consumption of production
Strengthening targeted activities to prevent and reduce the environmental risks associated with waste storage facilities to an acceptable level	Increase of technological and ecological risks associated with waste accumulation facilities
Forming the economic, as well as legal and regulatory framework for financial, logistical and intellectual provision of solving the issue of waste management	Increase in the costs associated with the disposal of waste, which will slow down the economic growth of the region
Developing and implementing the organizational and economic mechanisms for directing the business activity of business entities associated with waste management	Absence of motivation for business entities to solve the waste issue

The principles of using the "problem tree" method are as follows:

1) Identifying the problem for analysis and recording it in one sentence (For example: "The deterioration of the ecological state of the territories and the

sanitary condition of the settlements in the Donetsk region due to the lack of the safe and efficient waste management system")

2) Using brainstorming (brainstorming method) to generate a list of problems and their causes that lead to the main problem;

3) Recording the problem and its causes on the stickers and placing them on the board (or it can be done using a computer program) (Example Figure 1);

4) Grouping the problems and their subreasons into groups (clusters) that are interrelated;

5) Checking clusters for repetitions; defining and grouping the small interconnected elements;

6) Analyzing the clusters for what is the root of the problem, its subreasons. Deleting unnecessary elements (the sample of the "problem tree" is shown in Figure 2).

In our opinion, a thorough analysis should be the next step. The thorough analysis of the problems suggests that after organizing and approving all the elements, one can proceed to the thorough analysis. In the framework of the analysis, we will try to determine: what are the roots and main subreasons (causes) of the problems, what are minor accompanying factors for problems; what are the links between the subreasons; what are the other reasons that do not directly relate to the main problem; what problems or reasons do not concern the main problem, which ones are not to the time, are small, arise rarely or exist only in theory?

Here is an algorithm for determining the main subreasons (roots of the problem) and minor subreasons of the problem:

1. Roots of the problem are those problems that cause the problem either completely or to a large extent. If you eliminate the roots of the problem, the problem either ceases to exist or its relevancy, seriousness will diminish considerably.

2. Accompanying problems (causes contributing to the problem) are those reasons that may worsen the problem by either reinforcing its roots or otherwise. However, the reasons contributing to the problem are a relatively minor source of the problem, and when eliminating such causes, the problem will not decrease.

Excessive waste accumulation and unauthorized landfills creation that lead to the disease (mortality) of the population and pollution of the environment

Formation of the unauthorized (spontaneous, uncontrolled) land lls	Constant increase in the amount of waste that is not disposed of, but is taken out to be dumped	Lack of waste sorting stations (lines)
• the existing municipal solid waste land lls (MSWL) do not comply with environmental and health standards • the construction of land lls was planned, but not implemented • the construction of land lls has never been planned • the construction of land lls was planned, but not implemented • the issue of allocating the land for construction was not solved • the disagreement of the population to construct the land ll near their settlement • no work on recultivating the land lls is carried out • not only household but also hazardous waste is exported to the land lls • the control system does not work properly	• the population does not sort the waste • there is no separate collection system • there is no educational work with the population • lack of local programs for the establishment of a separate collection system • waste issue is not recognized as a priority • limited knowledge and skills in developing the program • limited funding opportunities	• lack of programs / projects for the construction of such stations • the unwillingness of business structures to invest in a waste management system • no direct obligation to sort waste • low level of environmental awareness of the population • lack of motivation of the population to sort waste

Fig. 1. “Problem Tree” Sample: Waste Management at the Regional or Local Level

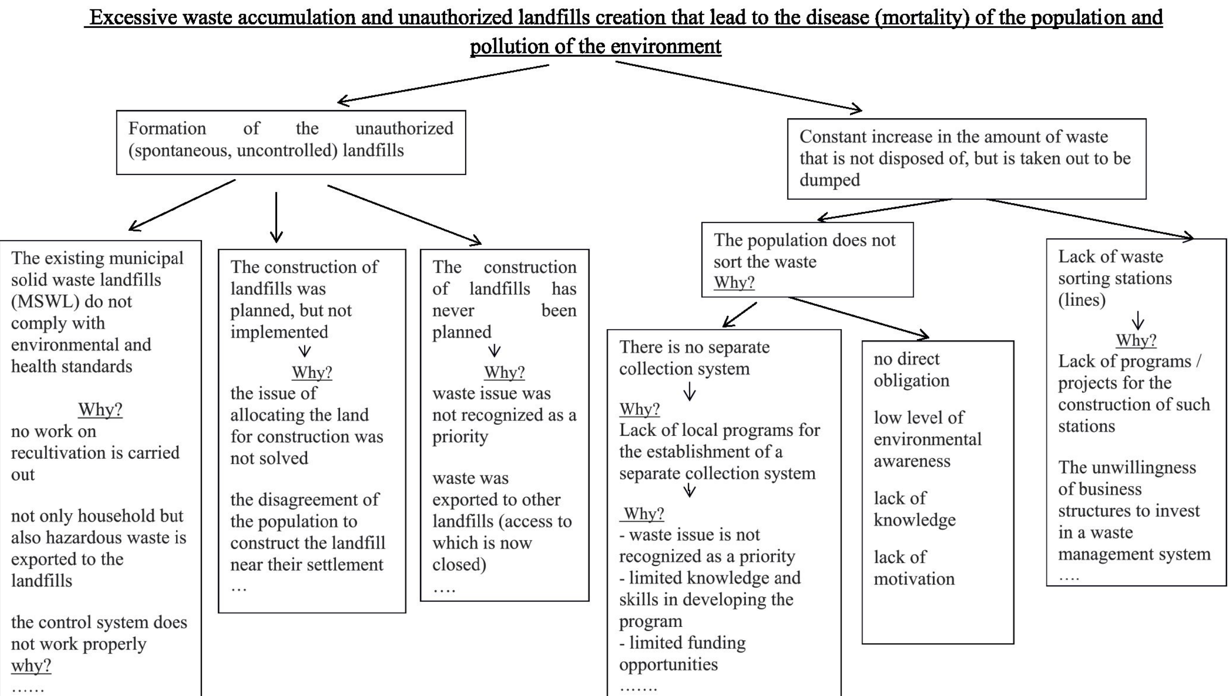

Fig. 2. "Problem Tree" Sample: Waste Management at the Regional or Local Level: Specification and Division into Clusters

3. If the interaction (relationship) between the two subreasons that lead to the problem and the problem itself disappear when one of the subreasons is eliminated, then the interaction (relationship) between the subreasons is the root of the problem.

- *Defining the aim (objectives) (building the "objectives tree")*

The aim of the program combines a set of interrelated tasks and activities aimed at solving the most important problems of the development of a region or a community, separate branches of economy and administrative and territorial units. The formulated definition of the purpose of the program should have a logical connection with its name.

Transforming the "Problem Tree" into the "Objectives Tree": the transformation of problems into the goals is represented as follows. Imagine that we solve all the problems identified through their analysis. We do this by taking the problem and rewriting it as if it has already been solved.

Example:

Problem: Deterioration of the ecological conditions

Rewrite as though it has been solved

Result: Improvement of the ecological conditions

For example, the aim of the Program is to improve the ecological conditions of the territories and the sanitary conditions of the settlements in the Donetsk region, as well as to increase the resource efficiency of its economic complex by creating a safe and efficient waste management system that involves minimizing their generation and maximizing processing and use as secondary raw materials.

What we have now is the goal to find a solution to the problem. This is the result we want to achieve on this issue. The next question is: "How are we going to do this?" (The sample of the Objectives Tree is shown in Fig. 3). That is how to achieve these goals?

Now that we have the Objectives Tree, we need to focus on how we can truly achieve these goals. Generating different variants requires a combination of analysis and brainstorming. First, the analysis will give us a better understanding of the goal, its consideration from different points of view and identifying the key aspects of the solution. The team can use brainstorming techniques to create different approaches to achieving the goal, based on the initial analysis.

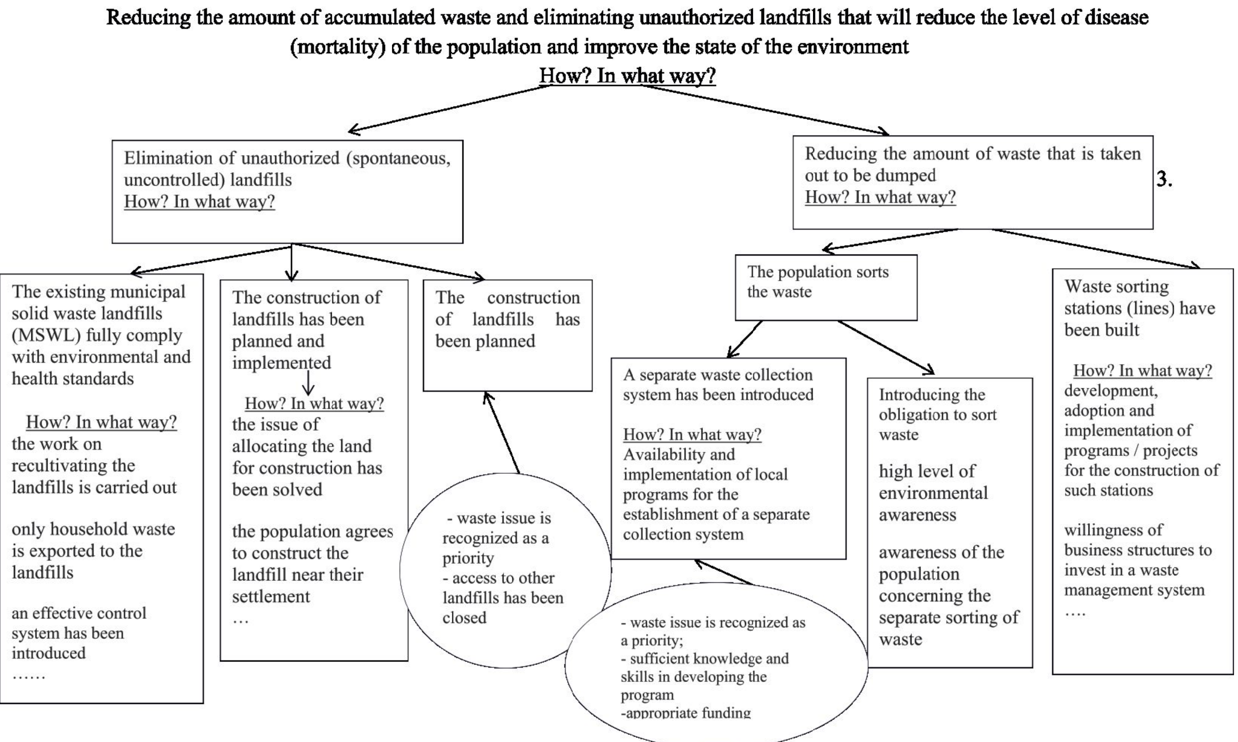

Fig. 3 The "Objectives Tree" Sample: Waste Management at a Regional or Local Level: Transforming the Problem Tree into the Objectives Tree

- Justifying the system of measures that are necessary to achieve the objectives of the program:

Firstly, it is necessary to justify the ways and means of solving the problem, the amount and sources of funding, as well as the terms and stages of program implementation, which should include the ways, methods and means of solving the waste issue, the terms and stages of the program implementation. If the program implementation period is 5 years or more, its implementation is divided into separate stages.

Secondly, it is also necessary to outline the list of tasks and activities of the program and performance indicators, which defines the system of program tasks, measures and indicators, the implementation of which will allow achieving the program goal and eliminating the causes of the problem. This way of solving an important problem for the region involves concentrating and directing financial, logistical, intellectual and other resources on priority tasks and measures on resource conservation and reducing the negative impact of waste on the environment and human health. This is important for improving the efficiency and sustainability of economic development both at the regional and local levels, as well as contributing to solving social problems.

The development of the program also implies the coordination and activation of the actions of the bodies of all the branches of local government, business entities, and the population to ensure the implementation of the National Strategy for Waste Management and state policy in this area, which is aimed at increasing resource conservation, reducing the harmful impact of waste on the environment and people's health.

The task of the program is specific directions and activities that are planned to be implemented over a period and which should ensure the achievement of the program objectives.

The tasks and activities of the program should be consistent with the state policy on waste management and built on the general principles of sustainable development. In this regard, the Pan-European approaches that are reflected in the National Waste Management Strategy until 2030, and the quintessence of which is the hierarchy of waste management operations that prioritises the management options from the most effective and desirable ones to the least acceptable, can serve as the basis for planning and implementing the measures of the waste management program. The management options are the following: (the Regulation 820-r, 2017):

1) avoiding (preventing the formation) of waste or minimizing it in quantitative terms;

2) reusing the products, materials, containers, etc., which reduces waste streams (e.g., regenerating tires);

3) recycling (resource recycling) waste;

4) recovery utilization that is composting organic waste, energy combustion, etc.;

5) removing or dumping as the least attractive alternative.

The implementation of these priorities includes: introducing the latest technologies and modern effective waste recycling facilities, mechanizing the processes, regulating the tariffs and increasing the profitability and efficiency of production activity, improving the quality and expanding the amount of the services provided, introducing the monitoring system for handling the separate waste streams, improving the accounting and reporting, and, as a consequence, reducing the negative impact of waste on the environment and the health of the population. Program performance indicators are the quantitative and qualitative indicators that characterize the results of the implementation of a regional and / or local waste management program, and on the basis of which the effectiveness of the use of local budgets for program performance is evaluated, the results achieved and costs are analyzed, analysis of the results and costs. The program developer determines the indicators by which the assessment of its implementation can be carried out in a comprehensive and integrated manner. The system of the selected indicators is used to monitor the dynamics of processes, as well as assess quantitative and qualitative changes.

Thirdly, to identify the course of action and program activities, that is specific actions aimed at fulfilling the objectives of the program, determining the amount of the local budget and fund from other sources being spent that are not prohibited by law. Determining the course of action ensures the implementation of the program within the funds allocated for this purpose. In addition, information is provided on the course of action, including measures, timelines for implementing the measures (in general and in stages) and their performers, the amount and sources of funding that is divided by years, and the expected outcome from the implementation of a specific measure. The substantiation of the directions of development of the waste management sector and the main activities of the Program in the given region or territorial community is carried out by analyzing the advantages and disadvantages of certain directions for introducing the best available technologies and comparing them with modern requirements, as well as carrying out the necessary calculations:

- Substantiation of the directions for introducing the best available technologies for the formation, collection, transportation, processing, dumping (disposal) of waste.

- Substantiation of organizational and managerial, financial and economic measures to be taken to reform and develop the industrial enterprises in the sphere of waste management, as well as control system.
- Substantiation of measures to be taken to protect and preserve the environment, as well as protect and improve the sanitary conditions of the territories.
- Substantiation of the educational and advertising measures aimed at increasing the participation of the population in the sphere of waste management.

Planning measures to be taken to introduce the new technologies and equipment for collecting, processing and disposal of waste; measures to improve the quality and expand the range and scope of services provided in the field of waste management; ecological and sanitary measures; organizational and managerial, as well as financial and economic measures; educational and information activities, mechanisms and procedure for their implementation, in particular: measures for improvement, technical re-equipment, reconstruction, recultivation, construction of landfills for waste disposal; measures to update garbage truck fleets, container facilities, etc.

Fourthly, to ensure the coordination and control of implementing the regional and / or local waste management program, in particular, to define the body that coordinates the activities carried out by the program executors and controls its implementation, determines the procedure for mutual information (with specified time frames) and reporting, etc.

The analysis of the parties concerned, the stakeholder analysis and stakeholders mapping should be carried out to identify potential partners. The stakeholder analysis helps select partners to implement the program and determine their roles, as well as helps identify and minimize risks. The stakeholder analysis involves: identifying potential supporters and opponents of the regional and / or local waste management program; determining the interests of stakeholders and possible impact on activities; identifying the form of participation of each stakeholder in each stage of the Program (O. Hryb, Yeroshenko, 2017, p. 13).

Analysts who can help identify the ways to solve the waste management issue, as well as scientists, representatives of partner organizations, sociologists, etc can be the experts to implement the regional / local waste management program.

Following the examination, alignment and approval of the regional and / or local waste management program, as well as the adoption of such waste management program, receiving funding and organizing its implementation, an important part that we consider it necessary to pay attention to in more detail is monitoring and evaluating the results of the regional / local waste management program implementation.

Information on the state of the program implementation, which is prepared once a year, should include data on the planned and actual amount and sources of funding the regional and / or local waste management program, performance indicators in the dynamics since the program's inception and an explanatory note on the work of the program co-executors regarding its implementation. In case of failure to implement the program, there should be the justification of the reasons for the program not being implemented (Order 367, 2006). This information is used to assess the effectiveness of the implementation of the regional and / or local waste management program and to propose the appropriateness of continuing its funding and execution.

An assessment that effectively contributes to improving the decision-making process carried out by the authorities should contain clear and useful recommendations. It is more appropriate to submit a small number of targeted recommendations directly related to the findings of the study instead of presenting a long list of necessary improvements.

The main criteria for evaluating the implementation of the program are the following (Berdanova, Vakulenko, 2012):

1) Compliance. By the compliance criterion, it is evaluated whether the program corresponds to the state priorities, functions and plans of the activity of the authority responsible for its implementation.

2) Performance. By the performance criterion, the degree of achieving the goals and their impact on the target group (groups) is assessed. This criterion assumes two types of achievements (see Table 2).

Table 2.

Performance Measurement[1]

	Type of Achievements	Example of an Indicator
Performance criterion	The product that characterizes the quantitative indicators of achievements	The number of employees who have completed the professional development program on waste management, the number of waste sorting lines built. The number of employees who have completed the professional development program on waste management with a certain level of success.
	Consequences are the outcomes of the product use	The number of employees who have got the job in a new specialty in a short period of time. The purity level of the city is 60% of the "normal" level, but the goal was 75%.

[1] (developed by the materials of O. Berdanova, Vakulenko, 2012)

3) Efficiency. The efficiency criterion refers to the amount of resources spent per unit of the outcome and can be compared with previous / planned indicators, adopted norms and standards, indicators of other organizations / territories (see Table 3).

Table 3.

Efficiency Criterion[1]

	What is it compared with	Example of an Indicator
Efficiency criterion	With previous results. With other organizations. With predefined indicators. With generally accepted norms and standards.	The cost of collecting and removing one ton of waste. The cost of transporting one ton of waste that was taken to the landfill in accordance with the schedule.

4) Cost-effectiveness. The cost-effectiveness criterion determines the total amount of resources (financial, material, human and others) spent on achieving the result, the overall scale of the result. An example of the criterion may be: the number and wages of employees involved in achieving the result; the production area that is required to obtain the result; the cost of materials used.

5) Sustainability. The sustainability criterion assesses the ability of the local government to continue implementing the regional and / or local waste management program, taking into account the current and predicted financial support and other internal or external factors.

The responsible executor of the regional and / or local waste management program makes a reasonable assessment of the results of the Program implementation every year and, if necessary, develops proposals concerning the appropriateness of continuing taking certain measures, including additional activities and tasks, specifying the indicators, the amount and sources of funding, the list of performers, terms of the program implementation, as well as certain activities and tasks, etc. The responsible executor of the long-term regional and / or local waste management program prepares proposals to clarify the indicators, the amount and sources of funding, the terms of the program and specific activities and tasks implementation, etc for the next stage of the program, having completed the corresponding stage of the program.

The implementation of the regional and / or local waste management program is terminated after the established deadline, after which the responsible executor of the program prepares the final report on the results of its implementation and submits it for consideration to the session of the local

[1] (developed by the materials of O. Berdanova, Vakulenko, 2012)

self-government body, together with the explanatory note on the final results of the program implementation not later than two months after the expiration of the established term of its execution. The explanatory note to the final report contains the following information: the achievement of the program goal, the level of achieving the planned performance indicators, information on the work of the participants of the budget program for its implementation, justifying the reasons for failure to implement the program or to achieve the expected results.

In case of necessity, the responsible executor publishes the main results achieved while implementing the regional and / or local waste management program in the local press. Early termination of the program execution occurs in case of loss of relevance of its main goal by joint submission of the corresponding report by the responsible program executor, the structural units responsible for the economy and the local executive body dealing with finance.

Conclusions

Thus, according to the results of the research, it can be stated that it is possible to solve the problem of inadequate preparation of regional and local programs by introducing the common standards and methodology for the development and functioning of regional and local target programs, as well as the special knowledge and training organized for civil servants involved in the development of target programs. The activities of local self-government bodies will be more effective if the directions, methods and forms of the development of local and regional target programs are substantiated scientifically, the theoretical and methodological provisions on the systematic approach to the formation of such programs are introduced as the object of management and the principles of analyzing the local problems for their anticipated solution are implemented.

Practical significance of the results of the study: the presented recommendations will make it possible to improve the work on the development and adoption of regional and local waste management programs; to ensure the cooperation of local self-government bodies with state and non-governmental providers of waste management in the process of developing, adopting and implementing regional and local waste management programs; to facilitate and improve the development of regional and local waste management programs aimed, in particular, at addressing the waste issue at the regional and local level.

Prospects for further research in this area include determining the importance of strategic environmental assessment of plans and programs and integrating the environmental initiatives in the planning process at the appropriate level.

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Streszczenie

W artykule rozpatrzono podstawowe zasady teoretyczno-metodyczne opracowania regionalnych i lokalnych programów gospodarki odpadami. Określono główne problemy i braki w zakresie opracowania regionalnych oraz lokalnych programów celowych, które negatywnie wpływają na jakość tych programów i obniżają ich efektywność. Przedstawiono także istotnościową charakterystykę pojęć „regionalny program gospodarki odpadami" i „lokalny program gospodarki odpadami". Wyróżniono podstawowe etapy opracowania lokalnych i regionalnych programów gospodarki odpadami. Określono rolę i istotę teoretycznych założeń metody programowo-celowej, metody „drzewo problemów" oraz metody „drzewo celów" i na ich podstawie opracowano przykłady zastosowania tychże metod. Oprócz tego wykazano, że rozwiązanie problemów związanych z niską jakością przygotowania programów regionalnych oraz lokalnych jest możliwe poprzez wdrożenie jednolitych norm opracowania i funkcjonowania regionalnych oraz lokalnych programów celowych, jak również upowszechnienie wiedzy oraz organizowanie szkoleń wśród urzędników państwowych zajmujących się przygotowaniem tychże programów. Zauważono, że działalność organów samorządu terytorialnego zyska na efektywności, pod warunkiem naukowego uzasadnienia kierunków, metod i form opracowania lokalnych i regionalnych programów celowych oraz zastosowania stanowisk teoretyczno-metodologicznych w zakresie podejścia systemowego do tworzenia takich programów jako przedmiotu zarządzania i realizacji zasad analizy lokalnych problemów w celu ich programowanego rozwiązywania. Sformułowano perspektywy dalszych badań w danym kierunku, co poprzedza określenie znaczenia strategicznej oceny ekologicznej planów i programów, jak również włączenia inicjatyw ekologicznych w proces planowania na odpowiednim poziomie.

Słowa kluczowe: *program regionalny, program lokalny, gospodarka odpadami, metoda „drzewo problemów", metoda „drzewo celów"*

Резюме

В статье рассмотрены основные теоретико-методические основы разработки региональных и местных программ. Определены основные проблемы и пробелы при разработке региональных и местных целевых программ, что отрицательно влияет на качество этих программ и снижает их эффективность. Представлена сущностная характеристика

понятий «региональная программа обращения с отходами», «местная программа обращения с отходами». Выделены основные этапы разработки местных и региональных программ обращения с отходами. Определена роль и сущность теоретических положений программно-целевого метода, метода «дерево проблем», метода «дерево целей» и на их основе разработаны примеры применения данных методов. Кроме того доказано, что решение проблемы некачественной подготовки региональных и местных программ возможно благодаря внедрению единых норм и методологии разработки и функционирования региональных и местных целевых программ, а также наличие специальных знаний и подготовки у госслужащих, которые занимаются разработкой целевых программ. Отмечено, что деятельность органов местного самоуправления будет более эффективной при условии научного обоснования направлений, методов и форм разработки местных и региональных целевых программ, применения теоретико-методологических положений относительно системного подхода к формированию таких программ в качестве объекта управления и реализации принципов анализа местных проблем для их программируемого решения. Определены перспективы дальнейших исследований в данном направлении, что предусматривает определение важности стратегической экологической оценки планов и программ и интеграции экологических инициатив в процесс планирования на соответствующем уровне.

Ключевые слова: *региональная программа, местная программа, обращение с отходами, метод «дерево проблем», метод «дерево целей».*

Анотація

В статті розглянуто основні теоретико-методичні засади розроблення регіональних та місцевих програм. Визначено основні проблеми та прогалини при розробленні регіональних та місцевих цільових програм, що негативно впливає на якість цих програм і знижує їх ефективність. Подано сутнісну характеристику понять регіональна програма поводження з відходами, місцева програма поводження з відходами. Виділено основні етапи розроблення місцевих та регіональних програм поводження з відходами. Визначено роль та сутність теоретичних положень програмно-цільового методу, методу «дерево проблем», методу «дерева цілей» та на їх засадах розроблено приклади застосування даних методів. Крім того доведено, що подолання проблеми неякісної підготовки регіональних та місцевих програм можливо завдяки впровадження єдиних норм та методології розробки та функціонування

регіональних і місцевих цільових програм та наявність спеціальних знань та підготовки у держслужбовців, які займаються розробкою цільових програм. Зазначено, що діяльність органів місцевого самоврядування буде більш ефективною за умови наукового обґрунтування напрямів, методів і форм розробки місцевих та регіональних цільових програм, запровадження теоретико-методологічних положень щодо системного підходу до формування таких програм як об'єкта управління та реалізації принципів аналізу місцевих проблем для їх програмованого вирішення. Окреслено перспективи подальших досліджень у даному напрямі, що передбачає визначення важливості стратегічної екологічної оцінки планів і програм та інтеграції екологічних ініціатив в процес планування на відповідному рівні.

Ключові слова: *регіональна програма, місцева програма, поводження з відходами, метод «дерева проблем», метод «дерева цілей».*

Section 6.
PROFESSIONAL SELF-GOVERNMENTS

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PROFESSIONAL SELF-GOVERNMENT IN POLAND ON THE EXAMPLE OF THE PROFESSIONAL SELF-GOVERNMENT OF PHYSICIANS AND DENTISTS – PAST, PRESENT, AND FUTURE CHALLENGES

Summary

One of the foundations of contemporary democracies is the institution of self-government which has multi-dimensional functionality. One of the examples of self-government are specialized self-governments, and professional unions among them. The skilled execution of professional obligations is the bond that links all professions which rely on public trust. The concept of professional associations is based on decentralization of public administration in the field of determined professions. In such cases, the state delegates the mandate of proper professional standards and performances to the professional associations to establish and uphold. This occurs by granting and canceling rights to carry out professional activities.

After the systemic transformation in 1989 in Poland, the Act of 17 May 1989 on Medical Chambers reintroduced the Medical Association.[1] The current law regulating professional self-governing association functions was adopted on 2 December 2009. One of the basic and inalienable rights and obligations of the Polish Medical Association is to establish of an ethics code, and to ensure adherence to the code as well as the proper and conscientious practice of association members, through professional (disciplinary) responsibility. This is one of the most important privileges of professional associations.

Key words: *professional associations, Medical Association of Doctors and Dentists in Poland, professions.*

1. General remarks

One of the foundations of contemporary democracies is the institution of self-government which has multi-dimensional functionality. One of the examples of self-government are specialized, professional unions and associations. The skilled execution of professional obligations is the bond that links all professions which rely on public trust. The concept of professional autonomy

[1] Dz. U. No 30, pos. 158

and self-government is based on decentralization of public administration in the relevant professional fields (Cherka 2004, p. 16). In the case, the state delegates the mandate of proper professional standards and performance to the professional self-government unions to establish and uphold. This occurs when the state grants rights to citizens regarding the private performance of specific professional functions (Kmieciak 2015, pp. 57-58).

The term 'profession' is understood as the systematic execution of a specific set of legally permissible activities, for which it is necessary to have certain qualifications and skills, which brings income to the person who is engaged in such activities (Wojtczak 1999, p. 50; Bułajewski 2008, pp. 204-222). One category of professions is regulated professions, including liberal professions and professions of public trust. Regulated professions should be understood as professions in which legal conditions and requirements structure the performance of obligations (Sobczak 2015, p. 20; Krasnowolski 2013, p. 3).

People employed in liberal professions are highly qualified and skilled, and stay independent in practicing their work. It is also indicated that liberal professions are usually associated with the provision of specific competences of non-material services by somebody with the requisite qualifications in the area of health, counseling, legal representation, science, and culture. Such services can often be provided without employing somebody engaged in the actual relevant profession. Traditionally, lawyers and doctors were classified as independent contractors. Today the distinction of liberal professions is less legally and practically significant because of the complex processes of service provision and the intense specialization of skills required (Szydło 2002, p. 51; Antkowiak 2013, p.129- 135; Krasnowolski 2013, pp. 11-13).

In Directive 2005/36/EC[1] of the European Parliament and Council on the recognition of professional qualifications, ratified on 7 September 2005, section 43 of the preamble provides a definition of liberal professions. These professions "are practised on the basis of relevant professional qualifications in a personal, responsible, and professionally independent capacity by those providing intellectual and conceptual services in the interest of the client and the public." As stated in the document, "The exercise of the profession might be subject in the Member States, in conformity with the Treaty, to specific legal constraints based on national legislation and on the statutory provisions laid down autonomously, within that framework, by the respective professional representative bodies, safeguarding and developing their professionalism and

[1] O.J. L255/22, from 30.9.2005, https://eur-lex.europa.eu/LEXUriServ/LexUriServ.do?uri=OJ:L:2005:255:0022:0142:EN:PDF.

quality of service and the confidentiality of relations with the client." (Sobczak 2015, pp. 34-39; Jacyszyn 2000, p.1; Tabernacka 2007, p. 21; Antkowiak 2013, pp. 135-137).

A distinct form of liberal professions are the professions of public trust, for which professional associations have been established. According to Art. 17. Sec. 1 of the Constitution of the Republic of Poland[1] of 2 April 2017, it is possible to create professional associations that represent the professionals who perform works of public trust, which ensure the proper performance of these vocations within the limits of public interest and for public interest protection. This ensurance is "a specific supervisory function which consists of instruction, counseling, explanations, and other forms of assistance, which exceeds the parameters of supervision. The insured are the citizens who perform professions of public trust. The subject of ensurance is the proper performance of a particular profession within the limits of public interest and for public interest protection." (Sobczak 2015, p. 49) Currently, in Poland, there are many professional associations with representatives from different fields which legislators consider professions of public trust. These include legal professionals (lawyers, legal advisors, notaries, patent attorneys, court bailiffs, etc.), and medical professionals (doctors, dentists, pharmacists, veterinarians, nurses and midwives, laboratory technicians, physiotherapists, psychologists, etc.).

Professional associations are defined as the "organizational assemblies of people who perform the same profession that represent their interests to state authorities, offer professional development, ensure ethical standards of the performance of professional activities, provide members social protection, and fulfill administrative legal tasks representative to public law partnerships such as keeping a registry of certified practitioners. The legal competences of the professional self-government associations determine its nature and distinguish it from typical unions" (Kmieciak 2015, pp. 57-58). It is compulsory for professionals to be affiliated with their relevant professional self-government association. It is impossible to perform a given profession without a professional self-government association membership. This obligation is backed by administrative and criminal sanctions stipulating that the performance of the profession in question, without proper certifications, is prohibited and sanctions, including criminal sanctions, may be imposed (Lemiszowska 2003, p. 173).

[1] Dz.U.1997, No. 78, pos. 483; http://www.sejm.gov.pl/prawo/konst/angielski/kon1.htm.

2. The Polish Professional Self-Governing Association of Physicians

The Self-Governing Association of Physicians in Poland first emerged in the 19th century by ordinance of the medical councils. It also existed during the Second Polish Republic and shortly after World War II. However, the Act of 18 July 1950, abolished medical chambers, and the powers of professional self-government associations were assimilated into state competences.

After the systemic transformation in 1989 in Poland, the Act of 17 May 1989 on Medical Chambers reintroduced medical self-government.[1] The current law regulating professional association functions was adopted on 2 December 2009. One of the basic and inalienable rights and obligations of the Polish Medical Self-Government is to establish of an ethics code and to ensure adherence to the code, as well as the proper and conscientious practice of association members through professional (disciplinary) responsibility. This is one of the most important privileges of the professional association (Skrzypczak 2015, pp. 260-295).

The Code of Medical Ethics (CME) in force, establishing deontological norms of medical practice, was adopted during the II Extraordinary National Congress of Physicians on 14 December 1991. The CME contains similar standards as the adopted normative acts (however, it is possible to find those that refer only to deontological issues). The repetitive nature of these acts results from the fact that the CME was adopted in 1991 while the law from 1952 was still in force. The medical community made such restrictions because they were aware of the disadvantages of the Stalinist normative policies, and wanted to introduce higher, universally applied standards. Today, it might be surprising to find such repetitions of the same standards contained in the CME and in established normative legislation. The Code of Medical Ethics has since been amended three times, most recently during the VII Extraordinary National Congress of Physicians on 20 September 2003 (valid from January 2, 2004)[2].

In accordance with the provisions of the 2 December 2009 Medical Chambers Act[3], the Medical Self-Government of Physicians and Dentists (MSGPD) represents physicians and dentists and ensures the proper performance of these vocations, within the limits of public interest and for public interest protection. The MSGPD has independence in the execution of its competences and is subject only to the law. The organizational units of the MSGPD are the Regional

[1] Dz. U. No 30, pos. 158
[2] See http://www.nil.org.pl/__data/assets/pdf_file/0003/4764/Kodeks-Etyki-Lekarskiej.pdf
[3] Dz.U.2018 pos.168.

Chambers, the Military Chamber of Physicians and Dentists, and the Polish Chamber of Physicians and Dentists, which is a national-level representative body of the medical associations. The organizational units of the MSGPD have legal personality, which means that each Regional Chamber, the Military Chamber of Physicians and Dentists, and the Polish Chamber of Physicians and Dentists are separate legal entities. The seat of the Polish Chamber of Physicians and Dentists is in the capital city of Warsaw. Currently, there are 23 Regional Chambers operating in Białystok, Bielsko-Biała, Bydgoszcz, Gdańsk, Gorzów Wlkp., Katowice, Kielce, Kraków, Lublin, Łódź, Olsztyn, Opole, Płock, Poznań, Rzeszów, Szczecin, Tarnów, Toruń, Warsaw, Wrocław, Zielona Góra, Koszalin, and Częstochowa. The Military Chamber of Physicians and Dentists, which unites military medics, is based in Warsaw and operates on the nationally by the terms established by the Medical Chambers Act for Regional Chambers. After the reestablishment of the Medical Self-Government in 1989, there was a plan to create a separate Medical Chamber of the Ministry of the Interior, in tandem with the Military Chamber, which was not fulfilled in practice (Skrzypczak 2015, pp. 260-295).

In accordance with applicable regulations, the obligations of the Medical Self-Government include: establishing medical ethics guidelines; ensuring adherence to the guidelines; ensuring diligent and thorough medical care; granting the right to practice medicine and recognizing qualifications and certifications of doctors who are citizens of European Union Member States and intend to practice medicine in the Republic of Poland; suspending and restricting the rights of doctors to; conducting proceedings regarding the professional liabilities of doctors; conducting proceedings regarding failures to perform the medical duties or insufficient preparation for practicing; conducting or participating in organizing professional development for doctors; delivering opinions and making motions regarding under- and postgraduate training of physicians and representatives of other medical professions; chairing selection commissions in the procedure of nominating heads of hospital wards and participating in the procedures of nominating other healthcare managers, if stipulated by separate regulations; giving recommendations about physicians as candidates for positions or functions, if stipulated by separate regulations; keeping a registry of physicians, a registry of certified practitioners , a registry of medical universities, and and a registry of physicians working part-time; giving input regarding doctors' working conditions and compensation; integrating the medical field; protecting the medical profession, including acting in defense of the dignity of the medical profession, and the individual and collective interests of members of the Medical Self-Government; taking a position on issues related

to social health and wellbeing, the health policy of the state, and the organization of preventative medicine; delivering opinion on proposed legislation concerning healthcare and medical practice; conducting medical research; providing information regarding the general rules of practice, principles of medical ethics, and healthcare regulations; running self-help clinics and other forms of material assistance for doctors and their families; cooperating with public administrative bodies, trade unions, and other organizations in the country and abroad regarding healthcare and medical practice; cooperating with the Medical Self-Government and other organizations representing medical professionals nationally and internationally, as well as with bodies of the European Union Member States; cooperating with scientific societies, universities, institutes, and research and development organizations in Poland and abroad; managing the property and business activity of the medical chambers (Skrzypczak 2015, p. 260-295).

The Medical Chambers are comprised of a Regional Assembly, a Regional Council, a Regional Audit Committee, a Regional Medical Court and a Regional Screener for Professional Liability. Delegates participate in the Regional Assembly and give advice to non-delegate members through the Regional Chamber. Delegates are elected in Electoral Districts. The Regional Council summons the Regional Assembly every year. The Regional Assembly: adopts resolutions regarding matters within the scope of the Chamber's competences; sets the rules of financial management and establishes a budget, examines and approves annual and term reports from the Chamber bodies, considers the motion regarding Regional Assembly expenses; adopts the regulations for the Chamber bodies; determines the number of members within the Chamber bodies and Regional Electoral Commission; elects the President, members of the Regional Council, Regional Screener for Professional Liability, members of the Regional Audit Committee, members of the Regional Electoral Commission, and delegates for the General Medical Assembly from delegates of the Assembly; appoints members of the Regional Medical Court and the Deputy Regional Screener for Professional Liability from delegates, or doctors indicated by the retiring Regional Screener for the position of Deputy Regional Screener for Professional Liability. The Regional Council manages the Chamber's activities in the period between the Regional Assemblies, in particular it: ensures proper and conscientious medical practice by members of the Regional Chamber, disseminates the standards of medical ethics and ensures they are upheld; represents and protects the individual and collective interests of the chamber members; submits term and annual budgetary reports to the Regional Assembly; collects and keeps record of membership dues; executes mandates of the Regional Assembly and the General Medical Assembly; keeps regional registries of doctors, dentists, and medical practitioners and universities

authorized to lead postgraduate training of physicians and dentists; issues a Chamber newsletter; maintains an archive of Regional Chamber documents. The Regional Council consists of the President and the Board, who are elected by the Regional Assembly. The Regional Council also includes the Vice-Presidents, Secretary, Treasurer, and elected Councilmen. At least one of the Vice-Presidents must be a dentist. The Board acts on behalf of the council in matters regarding council resolutions. The President of the Regional Council manages the Board and oversees the required work. The Regional Audit Commission controls the Chambers financial and economic activity; presents monitoring reports to the Regional Assembly; presents an opinion regarding the Regional Council's budget proposal to the Regional Assembly and, on this basis, submits an application regarding the Regional Council's expenses to be approved by the Regional Assembly. The Regional Medical Court deals with matters pertaining to the professional liability of doctors; examines objections to the validity of elections for the Regional Assembly and objections to the validity of appeals; submits term and annual reports on its activity to the Regional Assembly. The medical court may impose the following penalties: admonitions; reprimands; cash penalties; a ban on performing managerial functions in organizational units of healthcare for a period of one to five years; limiting the scope of medical practice competences for a period of six months to two years; suspension of the right to practice for one to five years; complete loss of licensure. The responsibilities of the Regional Screener of Professional Liability include performing inspections and conducting explanatory proceedings regarding professional liabilities of doctors, functioning as a prosecutor in the Medical Court hearings, and submitting term and annual reports to the Regional Assembly. Organizational, administrative, financial, and legal services for the Chamber bodies are provided by the Office of the Regional Medical Chamber (Skrzypczak 2015, p. 260-295).

A doctor intending to practice medicine, whom the Regional Medical Council has granted the right to practice, is automatically included on the list of members of this association. Being removed from this registry of the Regional Medical Chamber happens if: the doctor renounces the right to practice medicine; loses Polish citizenship or citizenship from another EU Member State and simultaneously does not acquire the citizenship of any other EU Member State; loses partial or total mental capacities; the doctor's medical practice license expires; the doctor is deprived of the right to practice; dies. Members of the Medical Self-Government are obliged to follow the rules of medical ethics, the regulations regarding medical practice, and adhere to the resolutions of the Medical Chamber Bodies. They have been granted the right to: elect and be elected to the Chamber Body; be informed about the activity of the local self-

government; utilize professional development programs; be ensured of adequate working conditions; have protection and legal assistance regarding medical practice from the Bodies of the Chambers; have access to social benefits and self-help activity. An employer is obliged to release employees from work if they are members of or perform activities for the Chamber bodies without the right to remuneration for the duration of involvement with the Chamber body. The employer, without obtaining the consent of the proper Council, cannot terminate the contract of employment of a doctor who is a member of the Chamber Bodies (Skrzypczak 2015, p. 260-295).

It is difficult to conceive of a democratic system without functioning self-government, including professional self-governments. Professional self-governments are criticized from many directions. They have been accused of over-representing professional interests and misconstruing professional solidarity. Attempts have been made to appropriate some of the competences of professional self-governments, such as the internal regulation professional liability, to the Prosecutor's Office and common courts. Another proposed example of such appropriation is to make the training of students in their specialized professional craft a competence of the universities. Some members of professional self-governments are unhappy about the mandate for compulsory membership. It has been proposed to have self-government association membership be voluntary. These criticisms are potentially due to misconceptions about professional self-government, especially by people who are forced to make a compulsory contribution to the professional self-government (doctors pay approximately 15 EUR per month) or those who have been sanctioned by their professional associations. Despite criticism, a well-functioning professional self-government is an extremely important element of the democratic order (Skrzypczak 2015, p. 260-295).

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Streszczenie

Jednym z fundamentów współczesnych demokracji jest instytucja samorządu, funkcjonującego w wielu wymiarach i płaszczyznach. Jednym z przykładów samorządu są samorządy specjalne, a wśród nich samorządy zawodowe. Spoiwem łączącym wszystkie zawody zaufania publicznego jest wykonywanie określonego zawodu zaliczanego do kategorii zawodów zaufania publicznego. Idea samorządu zawodowego polega na decentralizacji administracji publicznej w obszarze określonych profesji. W ten sposób państwo przekazuje część swoich uprawnień w danym obszarze, w przypadku samorządu zawodowego w postaci pieczy nad prawidłowym wykonywaniem zawodu. Dzieje się to m. in. poprzez przyznawanie i odbieranie prawa wykonywania określonego zawodu.

Po zmianach ustrojowych w 1989 r. w Polsce, ustawą z dnia 17 maja 1989 r. o izbach lekarskich reaktywowano samorząd lekarski. Aktualnie obowiązująca

ustawa regulująca funkcjonowanie samorządu zawodowego została uchwalona 2 grudnia 2009 r. Aktualnie jednym z podstawowych i niezbywalnych praw i obowiązków samorządów zawodowych jest ustanawianie zasad etyki lekarskiej, dbanie o ich przestrzeganie, a także sprawowanie pieczy nad należytym i sumiennym wykonywaniem zawodu przez osoby zaliczane do tego grona, m. in. poprzez odpowiedzialność zawodową (dyscyplinarną). Trzeba zaznaczyć, że jest to w istocie jedna z najważniejszych prerogatyw samorządów zawodowych.

Słowa kluczowe: *samorząd zawodowy, samorząd zawodowy lekarzy i lekarzy dentystów w Polsce, zawody.*

Резюме

Одной из основ современных демократий является институт самоуправления, обладающий многомерной функциональностью. Одним из примеров самоуправления являются специальные органы самоуправления, в том числе профессиональные. Концепция профессионального самоуправления основана на децентрализации государственного управления в области определенных профессий. В этом случае государство делегирует мандат надлежащих профессиональных образцов и стандартов профессиональным органам самоуправления для установления и поддержки. Это происходит, в частности, путем предоставления и отмены права на осуществление профессиональной деятельности. После системной трансформации в 1989 году в Польше Закон от 17 мая 1989 года о медицинских палатах возобновил медицинское самоуправление. Действующий закон, регулирующий функционирование профессионального самоуправления, был принят 2 декабря 2009 года. В настоящее время одним из основных и неотъемлемых прав и обязанностей профессиональных органов самоуправления является установление правил медицинской этики, обеспечение их соблюдения и забота о надлежащем и добросовестном осуществлении профессии лицами, принадлежащими к этой группы, в частности через профессиональную (дисциплинарную) ответственность. Следует отметить, что это одна из важнейших привилегий профессиональных самоуправляющихся ассоциаций.

Ключевые слова: *профессиональное самоуправление, профессиональное самоуправление врачей и стоматологов в Польше, профессии.*

Анотація

Однією з основ сучасних демократій є інститут самоврядування, який характеризується багатовимірною функціональністю. Одним із прикладів самоврядування є спеціальні органи самоврядування, в тому

числі професійні. Концепція професійного самоврядування заснована на децентралізації державного управління у сфері певних професій. У цьому випадку держава делегує мандат належних професійних зразків та стандартів професійним органам самоврядування для встановлення і підтримки. Це відбувається, зокрема, шляхом надання та скасування права на здійснення професійної діяльності. Після системної трансформації в 1989 році в Польщі Закон від 17 травня 1989 року щодо медичних палат відновив медичне самоврядування. Чинний закон, який регулює функціонування професійного самоврядування, був ухвалений 2 грудня 2009 року. В даний час одним з основних і невід›ємних прав і обов›язків професійних органів самоврядування є встановлення правил медичної етики, забезпечення їх дотримання і турбота про належне і сумлінне здійснення професії особами, які належать до цієї групи, зокрема через професійну (дисциплінарну) відповідальність. Слід зазначити, що це один з найважливіших привілеїв професійних самоврядних асоціацій.

Ключові слова: *професійне самоврядування, професійне самоврядування лікарів і стоматологів в Польщі, професії.*

Section 7.
FINANCIAL CONTROL AND LIABILITIES OF PUBLIC AUTHORITY

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CURRENT SITUATION WITH STATE FINANCIAL CONTROL IN UKRAINE AND PROSPECTS OF ITS DEVELOPMENT

Summary

The article highlights the content and aim of the state financial control, defines its basic kinds, forms and methods. Legal frameworks of organization of state financial control in Ukraine are described and present problems are identified. At the beginning of the article current models of organization of state financial control in European countries are reviewed. The features of forming audit service in the state financial control system are analyzed and its activity is described. On the basis of the undertaken research a number of priority development directions of the state financial control system in Ukraine, directions of modernization of the state financial control system, taking into account European experience, are offered.

Key words: *state financial control system, state financial control, the State Audit Service of Ukraine, the SAS, audit, revision, monitoring of economic operations, financial violations, illegal charges, lack of revenues, internal control, internal audit.*

Introduction

The financial and economic instability in the recent years has prompted deepening of the economic recession, which in its turn has led to sharpening of the crisis in public finances and the formation of significant budget deficit. Thus, in the context of the acute shortage of state financial resources, improving their management and ensuring their efficient and rational use is an extremely urgent issue for Ukraine. In this regards, the control in the system of public administration is objectively gaining weight as well as the necessity to develop scientific basis of state financial control over the movement of financial resources and management in this area.

State financial control is one of the most essential functions of public administration that consists in promoting the implementations of state's financial policy and ensuring the formation and effective use of state financial resources for achieving the aims set by the state in the field of distributive relations.

The modernization of the state financial control system is conditioned both by the internal factors related to the necessity of forming more flexible,

transparent and open for an external public inspection the system of public finances, and by commitments that Ukraine has undertaken in the process of integration into the European Union.

Literature review

Some aspects of the problem of organizing state financial control are considered in the works of the following researches: O. Andriyko, M. Bazas, I. Basantsov, P. Germanchuk, M. Golovan, N. Dorosh, V. Zaytsev, E. Kaliuga, V. Melnychuk, I. Mykytiuk, V. Pihotskiy, M. Romaniv, N. Ruban, U. Slobodianyk, I. Stefaniuk, V. Shevchuk, S. Yurgelevich and other Ukrainian professional and scientists.

Research objective

The aim of the research is to develop theoretical proposals and practical recommendations for improving the state financial control system in Ukraine.

Results

The modern stage of socio-economic development of Ukraine is characterized by the stable market relations however, needs the state to increase its role in the control system of economic management, strengthen the fight against corruption and offences in the economic sphere. At the same time, the desire to continuously improve the public administration process implies the need for a scientific analysis of transformations, understanding and awareness of those organizational and economic mechanisms that are used by the state in the exercise of its core functions. In this realm the system of financial and economic control has the most importance, which must provide an equilibrium and balance for the functioning of society. The state cannot effectively function and develop without clearly organized control system of production, distribution and redistribution of the public product and other spheres of public life (Dmytrenko, 2010).

The financial and economic instability in the recent years has prompted deepening of the economic recession, which in its turn has led to sharpening of the crisis in public finances and the formation of significant budget deficit. Thus, in the context of the acute shortage of state financial resources, improving their management and ensuring their efficient and rational use is an extremely urgent issue for Ukraine. In this regards, the control in the system of public administration is objectively gaining weight as well as the necessity to develop scientific basis of state financial control over the movement of financial resources and management in this area.

The effectiveness of work of executive and local government bodies in the state largely depends on exercising control over the implementation of laws, decisions, orders, and the proper organization of their implementation.

Systematic and all-embracing control assists in providing scientific validity for the decisions, positions and other normative documents, their timely realization. It is a prerequisite for identifying and eliminating disadvantages in the activities of the subjects of management and the reasons that give rise to them. Control disciplines employees of the management apparatus, makes it possible to objectively assess the level of their competence and responsibility, positive practice of work. The state control has particular importance in the context of economic entities with different forms of ownership.

In a general, control is one of functions of management which is realized through the monitoring of the process of functioning of the management object with the aim of evaluating the validity and efficiency of the adopted administrative decisions, identification of deviations from these decisions and implementation of the correcting actions.

A special place in the control system is given to the state control - control of the activity of the economic entity performed by the state. By its very nature, state control is the government's review of how civil servants perform their responsibilities, how the public service functions in general.

The main task of the state control system is to increase the effective activity of state authorities in protecting the interests of the state and its citizens by increasing the responsibility of these bodies and their officials for the fulfillment of their duties. Such control, by its very nature, can and should be carried out on behalf of the state by special control bodies, not connected with any other functions.

Covering various spheres of public life, state control is divided, respectively, into separate types, the key place among which, in our opinion, objectively holds state financial control. In fact, any state activity requires the use of state resources, which results in certain economic results and consequences. Ensuring adequate control over project decisions and results is a prerequisite for the adoption of effective management decisions at any level of government (Basantsov, 2008).

It should be emphasized that in the society based on democratic principles, in particular, on the principle of the distribution of power, state financial control entails only the needs of the executive authorities in financial control, but also the needs of society's control over the activities of the executives itself, primarily in the material and financial sphere.

Thus, state financial control with all its constituents should be viewed as a multidimensional system of supervision and verification of legality, expediency, rationality and efficiency of the processes of forming and using financial resources at any level of management to assess the efficiency of the

administrative decisions made and achievement on this basis of economic progress.

Taking into account national experience of practical control activity, control is divided in accordance with the forms of its implementation: verification, revision and audit.

Verification is a way of controlling individual areas of a management system or individual business operations of a particular object in order to identify and document unlawful and inappropriate administrative measures for the creation, distribution or use of labor and material resources.

Revision is a method of a documentary and factual control which is carried out by means of a comprehensive review of the compliance by the enterprise, institution or organization with the financial legislation, as well as the conformity, correctness and efficiency of business transactions, the reliability of accounting and reporting in order to identify and document the illegal activities, distribution and the use of labor and financial resources, revealing the shortage and balances of funds and material values, as well as the identifying and making accountable responsible officials. Acts are written at the end of the revision and are basis for future necessary administrative decisions.

State financial audit is the kind of state financial control which entails the verification and analysis by the state financial control body of the actual state of affairs in the following spheres: legitimacy and efficiency of the use of state or public finances, property or other state assets, correctness of accounting and financial statements, and the functioning of the internal control system. The results of state financial audit and their conclusions are presented in a report (Pro osnovni zasady zdiisnennia derzhavnoho finansovoho kontroliu v Ukraini, 1993).

Thus, the state financial control should be viewed as a systemic and multidimensional process, since its implementation comprehensively studies the financial and economic activity of enterprises.

The realization of state financial control in Ukraine is carried out by the central executive body authorized by the Cabinet of Ministers of Ukraine to implement public policy in the field of state financial control (hereafter is an body of state financial control body) (Pro osnovni zasady zdiisnennia derzhavnoho finansovoho kontroliu v Ukraini, 1993).

The only body of the state financial control in Ukraine is the State Audit Service of Ukraine (in 2011-2015 it was called the State Financial Inspection of Ukraine, and before - the Main Control-Revision Agency of Ukraine). It is the only body which on behalf of the Government within the limits of the present law implements public policy in the field of state financial control.

The State Audit Service of Ukraine (the SAS) is a central executive body which is directed and coordinated by the Cabinet of Ministers of Ukraine and which ensures the formation and implements public policy in the field of state financial control (Polozhennia pro Derzhavnu audytorsku sluzhbu Ukrainy, 2016).

Legal acts that regulate the activity of the SAS's bodies are the following: Budget Code of Ukraine, Law of Ukraine "On basic principles of realization of state financial control in Ukraine" dated January, 26, 1993 № 2939 – XII (hereafter is Law № 2939), resolution of the Cabinet of Ministers of Ukraine dated February, 3, 2016 № 43 "On approving the Statute of State Audit Service of Ukraine", etc.

Basic tasks, functions, responsibilities and other legal frameworks of functioning of State Audit Service, its interregional territorial bodies are stipulated in the Statute on State Audit Service of Ukraine, that was ratified by the resolution of the Cabinet of Ministers of Ukraine dated February, 03 in 2016 № 43 (hereafter is Statute). In accordance with the Statute, one of main tasks of the SAS is promoting the formation and realization of the public policy in the field of state financial control.

Law № 2939 identifies main tasks of the state financial control body, which are the following: realization of state financial control over the use and preservation of state financial resources, irrevocable and other assets; the correctness of defining needs in budget funds and commitments; effective use of funds and property; the current state and accuracy of accounting and financial reporting in ministries and other executive bodies, state funds, funds of the compulsory state social insurance, budget institutions and economic entities of the state sector of the economy, as well as enterprises, establishments and organizations receiving (or having received during the audited period) funds from the budgets of all levels, state funds and funds of compulsory state social insurance or use (having used in the period under review) state or communal property, in compliance with budgetary laws, compliance with the law on public procurement, activities of economic entities, regardless of ownership, which are not assigned by law to the controlled institutions, by court decisions, adopted in criminal proceedings. State financial control is provided by the body of state financial control through the realization of the state financial audit, inspection, verification of procurements and monitoring of procurements (Pro osnovni zasady zdiisnennia derzhavnoho finansovoho kontroliu v Ukraini, 1993).

An inspection is carried out by the body of state financial control in the form of revision and consists in documentary and actual verification of certain number or separate questions on financial and economic activity of the controlled entities.

The inspection must assist with identifying the facts of violating legislation, finding guilty public servants and materially responsible servants who allowed for the violation to occur. The results of revision are presented in an act.

Planned and unscheduled external audits are conducted by the state financial control bodies in accordance with Law No. 2939 and the Procedure for conducting inspections by the State Audit Service, its interregional territorial bodies, approved by the Resolution of the Cabinet of Ministers of Ukraine dated April 20, 2006 No. 550 (hereinafter - Order No. 550). The results of the revision are presented in an act which is paper passed, written in a state language and contains introductory part and findings.

The identified violations of the legislation, which were made by the entity that is being financially investigated by the relevant state financial control body, are recorded in the audit statement with a mandatory reference to the norms of laws or other normative legal acts that are violated, indicating the perpetrating persons.

Today the state financial audit is performed by the SAS in four directions:

• state financial audit of implementation of the budgetary programs (resolution of the Cabinet of Ministers dated 10.08.2004 № 1017) (Poriadok provedennia Derzhavnoiu audytorskoiu sluzhboiu, yii mizhrehionalnymy terytorialnymy orhanamy derzhavnoho finansovoho audytu vykonannia biudzhetnykh prohram, 2004);

• state financial audit of activities of business entities (resolution of the Cabinet of Ministers dated 25.03.2006 № 361) (Poriadok provedennia Derzhavnoiu audytorskoiu sluzhboiu, yii mizhrehionalnymy terytorialnymy orhanamy derzhavnoho finansovoho audytu diialnosti subiektiv hospodariuvannia, 2006);

• state financial audit of implementation of local budgets (resolution of the Cabinet of Ministers dated 12.05.2007 № 698) (Poriadok provedennia Derzhavnoiu audytorskoiu sluzhboiu, yii mizhrehionalnymy terytorialnymy orhanamy derzhavnoho finansovoho audytu vykonannia mistsevykh biudzhetiv, 2007);

• state financial audit of individual economic operations (resolution of the Cabinet of Ministers dated 25.06.2014 № 214) (Poriadok provedennia Derzhavnoiu audytorskoiu sluzhboiu, yii mizhrehionalnymy terytorialnymy orhanamy derzhavnoho finansovoho audytu okremykh hospodarskykh operatsii, 2014).

All state financial audits are conducted by the SAS only in the planned manner.

The state financial audit of budget programs implementation (efficiency audit) is a form of state financial control aimed at determining the effectiveness

of using budget funds to implement planned goals and identify factors that prevent it. The efficiency audit is carried out with the aim of developing substantiated proposals for improving the efficiency of the use of state and local budgets when implementing budget programs. The main objectives of the efficiency audit are: assessment of performance indicators of budget programs, assessment of the effectiveness of budget programs, identifying omissions and deficiencies of organizational, regulatory and financial nature, which impede the timely, complete and qualitative realization of the planned goals, determination of the degree of influence of detected omissions and shortcomings on realization of the planned goals, development of proposals on ways (forms, means) for increasing the efficiency of using budget funds (Poriadok provedennia Derzhavnoiu audytorskoiu sluzhboiu, yii mizhrehionalnymy terytorialnymy orhanamy derzhavnoho finansovoho audytu vykonannia biudzhetnykh prohram, 2004).

Conducting the state financial audit of the business entities consists in checking and analyzing the activity, the actual state of affairs regarding the lawful and effective use of state or communal funds and property, other state assets, the correctness of accounting and the reliability of financial reporting, the functioning of the system of internal control of the sub- objects of management of the state sector of the economy (except budgetary institutions).

The level of management of financial and economic activity of the subject is mandatory assessed during the audit. It entails checking the compliance with the requirements of legislation, acts and decisions of the bodies of the economic entity and the entity itself, the reliability of the accounting and financial reporting, the provision of assets, the achievement of certain goals and objectives or having better performance due to the better execution of other business entities from effective, productive and efficient financial and economic activity (Poriadok provedennia Derzhavnoiu audytorskoiu sluzhboiu, yii mizhrehionalnymy terytorialnymy orhanamy derzhavnoho finansovoho audytu diialnosti subiektiv hospodariuvannia, 2006).

The state financial audit of implementation of local budgets is conducted with the aim of verification and analysis of actual implementation of local budget, efficiency of the use of communal money, property and other assets, authenticity of the financial reporting, functioning of the internal control system.

The main tasks of the audit are: to assess the form and level of execution of the local budget; identify reasons that negatively affect the implementation of the local budget; determine ways to improve the management of communal money assets and other assets, in particular regarding the possibility of increasing the number of revenues of the local budget (Poriadok provedennia

Derzhavnoiu audytorskoiu sluzhboiu, yii mizhrehionalnymy terytorialnymy orhanamy derzhavnoho finansovoho audytu vykonannia mistsevykh biudzhetiv, 2007).

The state financial audit of certain economic transactions, which are carried out by the economic entities, is carried out by the State Audit Service according to the list which is approved by the Cabinet of Ministers of Ukraine.

The main objective of the operational audit is to promote the legal and effective use of state or communal funds and / or property, other state assets, the correctness of accounting and the preparation of financial statements by economic entities.

Operational audit is carried out by means of continuous monitoring of business operations of the business entities related to the procurement of goods (services), the value of which equals or exceeds 100 thousand hryvnias, as well as works, the value of which equals or exceeds 1 million hryvnias (Poriadok provedennia Derzhavnoiu audytorskoiu sluzhboiu, yii mizhrehionalnymy terytorialnymy orhanamy derzhavnoho finansovoho audytu okremykh hospodarskykh operatsii, 2014).

According to the analysis of normative legal documents regulating the conduct of the state financial audit, it becomes clear that almost all the procedures for conducting them (in addition to the operational audit) are obsolete and subject to upgrading. Over the past decade, minor changes have been made to them, mainly with respect to the name of the subject of the state financial control. However, norms and provisions were not brought in line with the requirements of the present time.

The imperfection of the legislation, the impossibility of the timely application of modern approaches to the search and confirmation of information about the detected violations, obstructions caused by the controlled entities, etc., lead to a low level of detection of violations that has caused losses. The level of such detection is much lower when comparing with the scale of the control activities of financial and material resources.

In such a way, an efficient and effective system of financial control should be developed. It should be based on international standards, as well as on the fundamental principles and best practices of the EU, consisting in a consolidated and harmonized legislative framework, together with effective mechanisms for implementation in the field of public financial control, which is the center of strategic reforms of the state's development in the medium term. The introduction of the recommendations and proposals provided by the State Audit Service based on the results of public financial audits is also an important element for the increase of the economic effect of the control activities.

One can confidently state that the organization of the formation of the state financial control system in Ukraine needs urgent modernization as one of the key mechanisms of management activity of the state. However, the current situation of the system shows that this problem, unfortunately, is not a priority due to the negative influence of numerous objective and subjective factors.

Thus, among the most problematic issues in this area is not only the disparity of external and internal state financial control, their departmental closed nature, but also the artificial opposition of various supervisory bodies and the absence of a clear interpretation of their powers and coordination of actions. This in turn, in our opinion, causes:

- the contradiction between the declared state policy of financial control, the objective need of the society in a more comprehensive realization of state financial control of its functions, increase of its role in socio-economic transformations;

- insufficient cooperation between the bodies of state departmental and independent financial control, coordination of their actions, absence of a mechanism of feedback, which impedes the formation of their full-fledged system;

- prevalence in the activities of the controlling bodies of the control (with a significant time gap from the moment of making management decisions) in the form of audits and inspections for the detection of financial violations, which negatively affect the efficiency of public financial control, timely response to its results. The share of the follow-up controls is more than 70% and is carried out in the form of an audit (inspection), has fiscal character and according to the European Union approach does not belong to the PIFC - the concept of a model of public internal financial control based on manager's responsibility and including internal control, internal audit and harmonization of these two components at the central level. The PIFC pays the greatest attention to the procedures of preliminary and ongoing control (Deyneko, 2014);

- failure of the state financial control bodies to carry out policy-providing, analytical, law enforcement and anti-corruption functions, which largely determines the imperfection of the current state policy in the sphere of state financial control, insufficient level of its transparency, the enormous level of corruption, and, hence, the shadow economy in our country (according to the Federation of Employers Ukraine, business in recent years was forced annually to bribe up to 50% of the turnover);

- the lack of development of independent state financial control of the revenue part of the state and local budgets, the unlawfulness of the assignment of this function to the state tax service, which results in the

growth of budget losses, the lack of transparency in the formation of budget revenues, the lack of independent financial control over this very vital activity of the state sphere.

A significant disadvantage of the current mechanism of interaction between the state financial control bodies in Ukraine is that it is designed for its one-time episodes and does not provide for regular information exchange. The low level of information and communication and statistical provision of the formation of the system of state financial control is clearly manifested.

Due to the significant differences in the organization of control and the application of appropriate sanctions, one cannot speak about the comprehensive existence of the system of state financial control in Ukraine. Therefore, the system of state financial control, which functions in Ukraine, does not guarantee the appropriate level of the fiscal discipline as a whole in the state, and at the regional level, in particular (Ivanov, 2005).

The control activity is still characterized by the disorderly, sporadic, far from comprehensive audits and inspections of the whole array of funds spent by the state. The plans for the control measures are made not in accordance with any national principles or rules, but within the framework of the departmental approach of the controlling bodies. There are no national standards of control that are mandatory for all public authorities. Audits and inspections are also limited by the gaps in legislation. Therefore, numerous finances and significant number of public spending which are essential for solving social problems and accelerating economic growth, remain uncontrolled for years.

The authorities of the state financial control are only lightly interacting with the other supervisory bodies. There are no proper modern communication systems between them. At the same time, the current organization of state financial control does not provide the appropriate level of coordination, as there is no operational access of the state financial control bodies to the information on tax, customs and other control bodies (and vice versa) which is necessary for conducting inspections. The level of information interaction while confirming the actual export of goods and acquisition of the export proceeds is insufficient; there is no systematic provision of the coordinated monitoring by the state financial control bodies and tax authorities.

The lack of uniform methods and standards of the control activities, leads to the disunity, divergence, diversity of state financial control bodies with the control bodies at all levels. The multiplicity of characteristics of the system of state financial control and differences in the resource provision of controlling bodies complicate the application of unified criteria and indicators for assessing the effectiveness of subjects of the control.

In practice, there is often no system of clear and adequate indicators for measuring the results of program implementation and target values for each of these indicators. It makes it impossible to carry out a successful preliminary evaluation of programs, including alternative programs, at the stage of drafting a budget, monitoring the degree of achievement of the stated goals and planned results during the implementation of programs, evaluation of the effectiveness of implementation of programs. Moreover, there are methodological difficulties when one wants to express the results of current activity using quantitatively measurable indicators, distinguishing among them the direct and final socially significant indicators and, most importantly, the binding of the formulated results to the necessary budgetary expenditures.

Assessing the real socio-economic effect of implementing programs is extremely difficult, since programs are often declarative in nature, solve internal tasks, do not bind or, conversely, intersect with one another. Often in regional target programs, although, they are called target program, the funds substitute the goal. Therefore, it is especially important to audit the effectiveness of such programs, as the state financial control over their implementation often comes down to the following control: the targeted use of budget funds and timely funding of program activities in accordance with the mechanism of its realization; preliminary control is given relatively little attention, and preventive control is practically absent (Belukha, 2003).

In such a way, the main factors and reasons that negatively affect the implementation of state and sectoral programs are:

- shortcomings of the current legal framework (insufficient specification of the methodology of evaluating the effectiveness of programs at the stage of their development);
- unreasonable planning of expenses (financial, material, workforce) according to the program, interagency barriers;
- failure to comply with the regulatory requirements for the implementation of state and sectoral programs, and in some programs absence of the regulatory requirements;
- absence of quantitative and qualitative indicators (indicators) for the implementation of individual measures and the achievement of program goals, which prevent from evaluating them;
- orientation of the state bodies of the middle and lower branches (including the bodies of the territorial administration) to the development of budget funds, instead of achieving concrete results;
- inefficient spending of budget funds due to the mismatch of the real value of budget services and demanded in budget applications;

- lack of quality control over the effectiveness of program implementation.

Also not all forms of financial audit are used in Ukraine. Some experience in conducting an efficiency audit is accumulated both by the State Audit Service and the Accounting Chamber. At the same time the strategic audit of the state and the results of the use of national resources within the framework of project approaches to the management of socio-economic development of the state is still not developed. In our opinion, the latter direction could be materialized through the active participation of the State Audit Service at all stages of the formation of government strategies, the formulation of goals and indicators that will be applied in this area.

Insufficient effectiveness of the controlling bodies is explained by the fact that in Ukraine little attention was paid to the study of existing schemes of economic violations. Due to the lack of scientifically based forecasts, the bodies of state financial control are forced to engage mainly in detecting violations already committed, rather than preventing them. It is especially dangerous that the population is gradually losing faith in the ability of state to control socio-economic processes and phenomena, as well as the banking system of the country (Pleskach, 2009).

Effectiveness and efficiency of public financial control is reduced due to the frequent lack of adequate decisions based on the results of inspections, and the weak response of law enforcement agencies to identified financial violations. The main reason for the emergence of problems in this area is the uncertainty of the components of the system of state financial control.

Today there is no common information exchange platform for the control bodies, no unified information base on the planned amount of funding and allocated funds for the provision of control measures, on the detected violations, shortcomings as well as limited penetration of modern information technologies in this sphere.

There is also no single classifier of offenses which have been detected by the state financial control bodies during the control activities. There are shortcomings in the departmental reporting of control measures, which makes it impossible to compare them.

The formation of a holistic system of state financial control should be based on a mixed model of its organization, implementation and integration of its individual elements and subsystems to ensure consolidation of opportunities and material, human, financial, intellectual and information resources of its entities and harmonization of their control relations of the synergistic effect of formation and use of budget funds and funds of state-owned trusts, state borrowings,

official gold and foreign currency reserves, foreign investments into the country and outside, state property, the use of tax and customs privileges.

Solving complex issues connected with developing a system of public financial control requires the use of foreign experience, which takes into account general approaches and principles of constructing such systems, developed and applied systematic approach to the identification of their elements, already formed standards for the implementation of control, analytical and expert measures, evaluation and presentation of their results.

Only taking into account these significant moments and gained experience the system of state financial control should become united and integral, since its construction is determined by the principle of unity of the budget system, the unified legislative norms, principles and requirements of functioning, a clear separation of functions and powers of the financial control bodies aimed at solving problems with the control of state and local finances.

With this approach, all existing controlling bodies can operate at every level of the implementation of state financial control when their functions are clearly defined, , and the system approach does not imply a rigid vertical structure (Mykytiuk, 2007). Excessive monolithic system will not allow promptly reaction to the numerous changes in markets (Germanchuk, 2004).

Formation of a unified system of state financial control is not possible without taking into account both the current legislative and regulatory framework, as well as the elaborated proposals regarding: the formation and strengthening of independent financial control, the legal basis for its implementation, structure and organization; formation of a unified system of state financial control in accordance with the purpose of its creation; delimitation of powers of state financial control bodies during carrying out of control-audit and expert-analytical activities; improvement and coordination of supervisory bodies in a single system of state financial control.

When analyzing problems that may arise in the process of creating and building a unified system of state financial control, special attention should be paid to the unsettled regulatory and legal framework, the lack of scientific, methodological and information support for state financial control, the lack of a systematic approach to personnel, logistics and finance software.

Solving these issues requires solving interrelated tasks, in particular:

1) legal definition of the concept of "a unified system of state financial control" and the development and approval of a single concept of its development;

2) bringing the regulatory and legal framework of the state financial control in line with the requirements;

3) research and generalization of foreign experience and its adaptation to national practice;

4) formation of new and improvement of the existing forms and methods of control, bringing the methodological basis of state financial control in line with the requirements of modern time, taking into account the achievements of science and technology;

5) introduction of information technologies in order to increase the information interaction of controlling bodies, as well as to develop a mechanism for interaction between legislative and executive bodies both at the state and at the regional level;

6) introduction of mechanisms for assessing the efficiency and quality of public financial control (Mykytiuk, 2007).

Thus, when forming a unified system of state financial control, the following components should become the main components: the totality of state financial control bodies; the relationship between these bodies and state authorities; establishing a hierarchy of controlling bodies; list of objects of control; identification of the controlled entities; a list of tools (forms, methods, etc.) that can be used by specific control subjects; rights, responsibilities, responsibilities of subjects of control and controlled entities (Mykytiuk, 2007).

Given the foregoing, there is a need to streamline these components into a definite, clearly verified system, to consolidate this system in legislative and other regulatory legal acts, which, in turn, raises the question of the need to define conceptual approaches to building a unified system of state financial control.

In general, the key components of the financial control over the management of the state (local) resources and their use, despite the current irregularity of this notion and its classification features in legislative acts, are government control (or public financial control) (Pro osnovni zasady zdiisnennia derzhavnoho finansovoho kontroliu v Ukraini, 1993) carried out by the State Service, parliamentary control (or public external financial control (audit)) (Pro Rakhunkovu palatu Ukrainy, 2015), which is carried out by the Accounting Chamber, and internal control and internal audit, which is provided respectively by the spending units and a unit of internal audit in a budgetary institution (or public internal financial control) (Standarty vnutrishnoho audytu, 2011).

Such structure and classification of the national financial control system provides a reliable platform for its effective development, in particular, the development of the legal field, the regulation of the conceptual apparatus, the unification of clear and transparent rules of the respective bodies, the improvement of the mechanism of cooperation and the exchange of information

between them, identification of the status and mission of each of them. After all, the main purpose of their activity is to ensure effective financial control over the management of state (local) resources and their use, as well as to promote maximum approximation to international standards and best practices of the EU.

The development of the bodies of the State Service and the Accounting Chamber, which exercise control on behalf of various branches of power, but are endowed with similar powers in certain areas of control over state management and use of state (local) resources, today is an important and one of the main priorities of the country in terms of European integration. Therefore, the question of establishing fruitful and constructive cooperation between them is of high importance, in particular, planning and conducting control measures, modernization of their methodological and legal frameworks, increase of public confidence in the results of their control measures, etc. (Kontseptsiia realizatsii derzhavnoi polityky, 2017).

In Ukraine, the presence of similar powers in the bodies that exercise control on behalf of different branches of government in various spheres of control is considered a negative practice. Meanwhile, in the leading countries of the world including the Netherlands and the United States, which have an effectively functioning system of financial control, such approach is not uncommon. In such countries the presence of similar or virtually identical powers of financial control bodies that perform control on behalf of different branches of government, under the condition of minimal duplication of control measures in practice, is considered as a system of checks and balances, which ensures the principle of transparency and effectiveness of control, as well as an incentive for the effective interaction of these bodies.

Today in order to develop an effective and efficient system of financial control in the country, which would be based on the international standards, fundamental principles and best practices of the EU, it is advisable to focus on solving a number of problems that hinder or have a negative impact on the financial control. In particular, it is essential to monitor the real possibility of ensuring the effectiveness of financial control at the central, regional and local level by the relevant authorities and identify the legislative, organizational and managerial issues in this area.

At the present stage the State Audit Service is essentially an effective tool of the Government of Ukraine, which has the foundation for ensuring quality control of the legality and efficacy (effectiveness, efficiency and economy) management and use of public (local) resources and activities of relevant state bodies (Zvit pro rezultaty roboty Derzhavnoi audytorskoi sluzhby Ukrainy, 2016).

Finding solutions to the listed below problems would ensure further development of the State Audit Service and reform of the system of state financial control:

• imperfection of legal, financial, informational and methodological provisions of the system of state financial control;

• lack of legal frameworks and methodology for conducting the following activities by the State Audit Service: financial audit (audit of the financial statements), IT audits, audit of EU funds and grants, audit of investment projects, etc. due to the limited nature of the introduced types and forms of audit in the practice of the bodies of the State Audit Service; the imperfection of the methodology of the introduced types and forms of audit, its non-compliance with contemporary international practices;

• insufficient inspection reorientation to considerable financial offences and conducting audits solely on the basis of risk because of the fragmentation of efforts on smaller and insignificant audits at the request of law enforcement agencies;

• lack of cooperation with European counter-terrorism authorities (in particular, OLAF);

• insufficient understanding of public authorities, local governments and organizations which were created by them and entities of state or municipal property of the nature of audits which are carried out by the SAS; no promotion of high-quality interaction and formation partner relations;

• limited measures of influence of the SAS on the dishonest executives and violators of financial discipline, budget laws and their non-compliance with the legal requirements of the SAS;

• low capacity of budget funds managers to implement and develop internal control due to the lack of awareness of the essence of state internal financial control and low responsibility levels for the results of their activities, in particular, to society;

• limited access to information resources (databases, registers, automated systems), in particular, due to their absence or imperfection of the mechanism for the exchange of information between public authorities, lack of effective interaction between financial control bodies among themselves;

• low level of control coverage of local budgets by the bodies of the SAS because of a lack of appropriate human resources;

• the need for a radical change in the system of training and advanced training of state auditors; introduction of international practices of permanent professional development into national practice; increase of resources for these purposes, active involvement of international donor organizations;

• the need to increase the level of awareness of the society about the directions and results of the SAS, in particular, focusing on information covering specific benefit for taxpayers.

Comprehensive resolution of these problems can occur only under the condition of taking measures on a national level to reform and improve the efficiency of state financial control, which includes identifying trends and mechanisms of development of the state financial control, particularly strengthening institutional capacity of the SAS (Kontseptsiia realizatsii derzhavnoi polityky, 2017).

If these problems are resolved: an integral and effective system of state financial control will be created; fiscal and budgetary discipline will be strengthened; abuse in the use of state resources will be minimized; governance and use of state resources by state authorities will be improved; the development of the legal and methodological foundation of functioning of the State Audit Service is provided as well as its approximation to the best practices of the EU.

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Streszczenie

W artykule rozpatrzono treści i cel państwowej kontroli finansowej, określono jej główne typy, formy i metody, scharakteryzowano prawne podstawy organizacji państwowej kontroli finansowej na Ukrainie, jak również wskazano aktualne problemy w tym zakresie. We wstępie artykułu przedstawiono współczesne modele organizacji państwowej kontroli finansowej w państwach

europejskich, przeanalizowano specyfikę tworzenia służby audytorskiej w systemie państwowej kontroli finansowej oraz scharakteryzowano jej działalność. Na podstawie przeprowadzonego badania przedkłada się szereg priorytetowych kierunków rozwoju systemu państwowej kontroli finansowej na Ukrainie, a także proponuje się kierunki modernizacji systemu państwowej kontroli finansowej, w tym z uwzględnieniem doświadczeń europejskich.

Słowa kluczowe: *system państwowej kontroli finansowej, państwowa kontrola finansowa, Ukraińska Państwowa Służba Audytorów, audyt, rewizja, monitoring operacji gospodarczych, naruszenia finansowe, bezprawne wydatki, utrata dochodów, kontrola wewnętrzna, audyt wewnętrzny*.

Резюме

В статье рассмотрено содержание и назначение государственного финансового контроля, определено его основные виды, формы и методы, охарактеризировано правовые основы организации государственного финансового контроля в Украине и определено наявные проблемы. В начале статьи рассмотрено современные модели организации государственного финансового контроля в европейских странах, проанализировано особенности формирования аудиторской службы в системе государственного финансового контроля та охарактеризировано ее деятельность. На основании проведенного исследования предлагается ряд приоритетных направлений развития системы государственного финансового контроля в Украине, предложено направления модернизация системы государственного финансового контроля, в том числе с учетом европейского опыта.

Ключевые слова: *система государственного финансового контроля, государственный финансовый контроль, Государственная аудиторская служба Украины, Госаудитслужба, аудит, ревизия, мониторинг хозяйственных операций, финансовые нарушения, незаконные растраты, утрата доходов, внутренний контроль, внутренний аудит.*

Анотація

У статті розглянуто зміст і призначення державного фінансового контролю, визначено основні його види, форми і методи, охарактеризовано правові основи організації державного фінансового контролю в Україні та визначено наявні проблеми.

Державний фінансовий контроль з усіма його складовими у практичному аспекті слід розглядати як багатоаспектну систему спостереження і перевірки законності, доцільності, раціональності та

ефективності процесів формування і використання фінансових ресурсів на будь-якому рівні управління для оцінки ефективності прийнятих управлінських рішень і досягнення на цій основі економічного прогресу.

На початку статті розглянуто сучасні моделі організації державного фінансового контролю в європейських країнах, проаналізовано особливості формування аудиторської служби в системі державного фінансового контролю та охарактеризовано її діяльність.

На сьогодні, єдиним органом державного фінансового контролю в Україні, який у межах наявного правого поля від імені Уряду реалізує державну політику у сфері державного фінансового контролю, є Державна аудиторська служба України.

На основі проведеного дослідження пропонується ряд пріоритетних напрямів розвитку системи державного фінансового контролю в Україні, запропоновано напрями модернізації системи державного фінансового контролю, у тому числі з урахуванням європейського досвіду.

Важливо на теперішньому етапі розвитку державного фінансового контролю першочергово здійснити моніторинг реальної можливості забезпечення ефективності фінансового контролю на центральному, регіональному і місцевому рівні відповідними органами та ідентифікувати проблеми законодавчого і організаційно-управлінського характеру у цій сфері.

Комплексне розв'язання окреслених у статті проблем можливе за умови вжиття на державному рівні заходів, спрямованих на реформування та підвищення ефективності державного фінансового контролю, що передбачає визначення напрямів і механізмів розвитку системи державного фінансового контролю, зокрема, посилення інституційної спроможності Держаудитслужби.

Ключові слова: *система державного фінансового контролю, державний фінансовий контроль, Державна аудиторська служба України, Держаудитслужба, аудит, ревізія, моніторинг господарських операцій, фінансові порушення, незаконні видатки, недоотримання доходів, внутрішній контроль, внутрішній аудит.*

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THE LIABILITIES OF PUBLIC AUTHORITY IN POLAND

Summary

When analyzing the responsibilities of public authority, one can indicate the following problems which raise numerous doubts regarding jurisprudence and the doctrine of civil law: determination of the principle of liability for public authority in regard to damages, establishing the extent of the conditions for the liability for damages, and reconciling with the ambiguity of the concept of unlawfulness. The issues outlined above are presented on the basis of the decisions of the Supreme Court and selected relevant literature.

Key words: *public authority, responsibilities of public authority, the principle of liability for public authority in regard to damages, unlawfulness.*

When analyzing the responsibilities of public authority, one can indicate the following problems which raise numerous doubts regarding jurisprudence and the doctrine of civil law: determination of the principle of liability for public authority in regard to damages, establishing the extent of the conditions for the liability for damages, and reconciling with the ambiguity of the concept of unlawfulness. The issues outlined above will be presented on the basis of the decisions of the Supreme Court and selected relevant literature.

In the jurisprudence and literature, it is assumed that the interpretation of laws should be consistent with constitutional solutions. For this reason, there was an amendment to the Civil Code, introduced by the Act of 17 June 2004, amending the Civil Code and certain other acts (*Ustawa z dnia 17 czerwca 2004 r....*). The amendment was purported to adapt the legislation of the Civil Code to the constitutional norms, in particular to Art. 77 of the Constitution of the Republic of Poland. As a result of the amendment, Art. 418 of the Civil Code was found to be contrary to the Constitution of the Republic of Poland, and Art. 417 of the Civil Code has been given a new meaning (Olejniczak, Banaszczyk, 2009, p. 753).

In light of the applicable provisions (Art. 77 § 1 of the Constitution of the Republic of Poland and Art. 417 of the Civil Code), either the State Treasury, local self-government units (municipality, county, voivodship or their associations), or any other legal entity exercising public authority by virtue of law or that has been given the power to act as an authority on the basis of an agreement, bears

responsibility for damages caused by unlawful acts or omissions in the exercise of public authority. Depending on whether the entrustment was made by law or on the basis of an order, the legal person will be liable alone or jointly with the State Treasury (local self-government unit).

The subjective capacities of Art. 77 of the Constitution of the Republic of Poland and Art. 417 of the Civil Code overlap each other. Nevertheless, in the legal doctrine, it is noted that the term "public authorities" contained in Art. 77 § 1 of the Constitution is vague, since civil liability can only be assumed by a civil law entity that participates in a civil law relationship and possesses the property on which the claims can be satisfied (e.g. the State Treasury, the National Bank of Poland, local self-government units), but not by a public authority. (Radwański, 2004, p. 9).

The liability for damages results from the public-law nature of the legal relationship. Although the obligation to repair the damage is private, it arises as a result of the illegal activities of the state or local self-government in the realm of authority, in other words, acts or omissions which occur during the performance of competences. Public law does not provide for the obligation of public authority to behave on the basis of the independent application of the non-legal code of conduct, e.g. principles of social coexistence (Wyrok SN z dnia 7 listopada 2013 r., sygn. akt: V CSK 519/12). Public authority acts only within the framework of the law. The term "exercise of public authority" means the unilateral control over the shaping of the legal position of the civil law entities (Ura, Ura, 2008, p. 46). For the damage caused by state or local self-government bodies out of the scope of public authority, they are subject to the general rules of civil law (Art. 416, 427, 435, 436 and ff. of the Civil Code), and not to Art. 417 and ff. of the Civil Code.

One can hold the State Treasure (local self-government unit) accountable for both absolute and limited liability. Regarding limited liabilities, the scope of responsibility of the State Treasury is determined by the Art. 361 § 1 of the Civil Code, which is limited to the consequences that remain in a normal causative link, omitting the defendant (Wyrok SN z dnia 8 maja 2014, sygn. akt: V CSK 349/13).

When defining the principle of liability of the public authority for an act or omission, reference should be given to Art. 77 § 1 of the Constitution of the Republic of Poland. This article eventually broke the structure of state liability based on the principle of guilt. The perpetrator's guilt is not requisite (*Konstytucja RP*...). This was confirmed by the Constitutional Tribunal in a decision on 4 December 2001 (Constitutional Complaint 18/00), in which it interpreted Art. 417 of the Civil Code and claimed that while establishing the

accountability of the State Treasury, one must recognize and make allowances regarding any blame attributed directly to the public servant (Orzeczenie TK z dnia 4 grudnia 2001r., sygn. akt: SK 18/00, OTK 2001/8/256).

Considering Art. 417 of the Civil Code, it is important to clarify the term "public authority," which has a broader definition than the term "state authority." The difference between these terms is based on the fact that the implementation of public authority includes activities pertaining to organization, control, supervision or order. Trusting public authorities to perform their responsibilities results not only from the obligation to perform but also from the character of the function, and the type of the position occupied by the official tasked with the implementation (Wyrok SN z dnia 7 listopada 2013 r., sygn. akt: V CSK 519/12). Therefore, in reference to the definition of the public authority, it can be concluded that claims of compensation are not dependent on the indication of a specific official, the perpetrator of the damage because the institution itself bears the responsibility as an organizational structure (Haczkowska, 2014, p. 807). The public authority bears the risk of liability which results from unlawful action.

The responsibility of the State Treasury (local self-government unit) covers unlawful actions or omissions by the public authorities. Regarding the concept of illegality on the basis of Art. 417 § 1 of the Civil Code, the Supreme Court established that irregularities in the operations of public authority may be violations of constitutional rights and freedoms, or constitutional principles of the functioning of public authority. It means that "unlawfulnes" stipulated in Art. 77 § 1 of the Constitution of the Republic of Poland is understood more precisely, in accordance with the constitutional approach to the sources of law (Art. 87-94 of the Constitution of the Republic of Poland). Therefore, this term means a violation of an injunction or prohibition resulting from a legal norm, and not from the principles of social coexistence (Wyrok SN z dnia 7 maja 2010 r., sygn.. akt: III CSK 243/09). This view should be considered as dominant.

In contrast to the above approach, the term unlawful, on the basis of the Civil Code, is understood more broadly and includes, besides a violation of legal provisions, a violation of moral and customary norms (described as "rules of social coexistence") (Orzeczenie TK z dnia 4 grudnia 2001r., sygn. akt: SK 18/00, OTK 2001/8/256). There is also a third proposition for the interpretation of Art. 417 of the Civil Code, and delineating the definition of illegality, which does not include non-compliance with non-legal standards. The three approaches indicate that the constitutional rule defined the minimum scope of protection. On the other hand using a civilian broad approach ensures that there is axiological coherence for regarding the definition of illegal, and raises the standards of protection for victims (Bagińska, 2006, p. 320).

In conclusion, it follows that the meaning of the provision of Art. 77 § 1 sets stricter premises for damages liability than the general principles based on the premise of guilt. On the basis of Art. 417 § 1 of the Civil Code, liability is established based on an unlawful act or omission during the exercise of public authority, and guilt of the public servant does not create responsibility for damages. If the guilt were the premise of the public authorities' liability, it would constitute a violation of the constitutionally shaped principle of the state's accountability for actions of governance (Uchwała SN z dnia 18.10.2011 r., sygn. akt: III CZP 25/11, OSNC 2012/2/15).

Not every law violation is the basis of liability for damages from the State Treasury (local sgovernment unit) as stipulated by Art. 417 § 1 of the Civil Code, but only the law violations which were a necessary condition for the harm of the injured party whose afflictions in the circumstance are the direct result of the violations. Whether the damage is done while exercising of public authority, or only on the occasion of its implementation is actually determined by the purpose of its action (Wyrok SN z dnia 7 listopada 2013 r., sygn. akt: V CSK 519/12).

In order to determine the liability of public authorities, apart from the causative incident, it is necessary to determine the other premises of the damage and the causal link between the incident and the damage (Radwański, Olejniczak, 2016, p. 85).

The main premise of the liability of public authorities is the occurrence of damage. Damage, by definition of Art. 417 of the Civil Code, constitutes material and non-material harm to the legally protected property of the aggrieved party, and the entities are responsible only for the normal consequences of the act or omissions, from which the damage resulted. This means that compensation for damage covers both material and non-material damage (harm) in terms of Art. 448 of the Civil Code (Wyrok SN z dnia 20 marca 2015 r., sygn. akt: II CSK 218/14).

A claim for compensation for damage caused by an unlawful act is granted to anyone who has suffered from the damage of his/her material or non-material property. Natural persons, legal persons, and all organizational units without legal personality can make such a claim (Wyrok SN z dnia 18 marca 2015 r., sygn. akt: I CNP 12/14). At the same time, they can also be legal persons governed by public law, such as a municipality (gmina), whose independence is protected by law. The scope of compensation includes both real losses (damnum emergens) and lost profits (lucrum cessans), which the injured party could have realized had the damage not been done (Haczkowska, 2014, p. 807). It should be added that the claimant bears the burden of proving all the prerequisites of such liability (Wyrok SN z dnia 7 listopada 2013 r., sygn. akt: V CSK 519/12).

The legislator, referring to various forms of violations of law by public authorities, granted the injured person the right of compensation for damage. These are claims for unlawful acts and omissions, by the issuance or lack thereof of an administrative or court decision, or due to an issued legal act or legislative omission. Finally, excessive length of judicial or preparatory proceedings may be the basis for claims of the individual as violating the constitutional right to the court, so the right to hear a case within a reasonable period, by an independent, impartial court, subject only to the Constitution and other laws (Art. 178 § 1 of the Constitution of the Republic of Poland of 1997), or by law enforcement agencies. The Constitution, among the provisions governing the rights and freedoms of individuals, in Chapter II also lists the right to compensation for unlawful deprivation of liberty, including the illegal imprisonment, detention, or use of other measures of security which infringe upon the law. Another ground for claims is the failure of the Polish state to implement the obligations of EU law in the national legislation. In this case, however, an individual may assert their claims after obtaining a ruling from the Court of Justice of the European Union, stating that the Member State is infringing upon EU law (Haczkowska, 2014, p. 805).

Conclusions

1. The unlawfulness of the actions of public authorities is insufficient to establish the legitimacy of an action for damages. It is necessary to have a loss and a causal link between the causative incident and the damage.

2. Maintaining responsibility for the actions of public authority on the basis of guilt would be a violation of the administrative authority. Only on the basis of the principle of illegality is a victim able to pursue liability claims for damage caused by the action of public authority, because it is not contrary to the administrative authority.

3. The attribution of the liability to public authorities for damage each time should be based on the determination of the unlawfulness with the reconstruction of legal norms that regulate the public-legal relationship, which was violated by a public authority. If legal norms refer to non-legal norms, they are necessary to the process of establishing illegality.

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Streszczenie

Analizując odpowiedzialność władzy publicznej można wskazać na następujące problemy, które budzą liczne wątpliwości w orzecznictwie oraz w doktrynie prawa cywilne go: po pierwsze, ustalenie zasady odpowiedzialności odszkodowawczej władzy publicznej; po drugie, wyznaczenie zakresu przesłanek odpowiedzialność odszkodowawczej oraz po trzecie, niejednoznaczność pojęcia bezprawności. Zarysowane powyżej kwestie zostaną przedstawione w oparciu o orzeczenia Sądu Najwyższego oraz wybraną literaturę przedmiotu.

Słowa kluczowe: *władza publiczna, odpowiedzialność władzy publicznej, zasada odpowiedzialności odszkodowawczej władzy publicznej, bezprawność.*

Резюме

Анализируя ответственность государственных органов, можно указать на следующие проблемы, которые вызывают многочисленные сомнения в отношении юриспруденции и доктрины гражданского

права: во-первых, определение принципа ответственности за ущерб государственной власти; во-вторых, определение сферы ответственности за ущерб и, в-третьих, двусмысленность в концепции противоправности. Эти вопросы представлены на основе решений Верховного суда и избранной соответствующей литературы.

Ключевые слова: *публичная власть, обязанности государственной власти, принцип ответственности государственной власти в отношении ущерба, незаконность.*

Анотація

Аналізуючи відповідальність державних органів, можна вказати на наступні проблеми, які викликають численні сумніви щодо юриспруденції і доктрини цивільного права: по-перше, визначення принципу відповідальності за шкоду державної влади; по-друге, визначення сфери відповідальності за шкоду і, по-третє, двозначність в концепції протиправності. Ці питання представлені на основі рішень Верховного суду і обраної відповідної літератури.

Ключові слова: *публічна влада, обов›язки державної влади, принцип відповідальності державної влади стосовно шкоди, незаконність.*

Section 8.
DECENTRALIZATION REFORMS AND LOCAL SELF-GOVERNMENTS FUNCTIONING – SOCIOLOGICAL ASPECTS

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POLITICAL PARTICIPATION AT LOCAL SELF-GOVERNMENT LEVEL – THE POLISH EXAMPLE OF CONDITIONS AND INSTITUTIONS

Summary

The objective of this article was to analyze the conditions and institutions of political participation at the level of local self-governments (particularly at the municipal level) in Poland. The results demonstrate that despite a broadening of institutional possibilities, community members are only moderately engaged in the operations of municipal-level governance. Changing habits and increasing the value of political participation takes time. That is why we must remain optimistic that the current increase of interest in, for example, the idea of civic budget, will contribute to higher voter turnout in future municipal-level elections and referenda.

Keywords: *political participation, local self-government, municipality, direct democracy, representative democracy*

Introduction

Civic participation in modern democratic states includes a range of institutions and is affected by a multitude of factors. The objective of this article was to address the research questions, focusing particularly on the local self-government level. Political participation at the national level is limited and mainly amounts to taking part in elections, but local governance at the community level seems much more conducive to civic engagement. Local communities have smaller jurisdictions and fewer people authorized to participate in the decision-making processes, making civic engagement more feasible. Moreover, the decisions made at the local self-government level affect the citizens' lives more directly, such as the construction of road infrastructure, education, and issues related to basic healthcare.

The subject of this article is the analysis of conditions and institutions of political participation at the level of local self-government in Poland. The literature pertaining to this subject offers a range of concepts regarding the definition of "political participation". In the most general perspective, it can be assumed that political participation is "the citizens' political influence on who

governs and how" (Antoszewski, 1997, p. 211). Political participation can be either conventional or unconventional (See more: Marciniak, Załęski, 2007, p. 202). "Conventional participation in politics is the activities, consistent with the constitutional order, that fit within the framework of democratic institutions. (...) Unconventional activities mostly include different forms of protests, demonstrations , strikes, and other forms of civil disobedience" (Skarżyńska, 2005, p. 163). Conventional activities are undertaken within the framework of democratic institutions while unconventional activities are conducted beyond these institutions. Another key term mentioned in the title of the article, local self-government, is defined as "decentralized state administration performed by local bodies, based on legal provisions, hierarchically independent from other administrative bodies and sovereign within statutory limits and general legal order" (Panejko, 1926, p. 97). A functioning system of governance, including local self-governments, is an important component of a democratic state. (Kotulski, 2000, p. 89).

Due to the broadeness of the research problem and the limited scope of this study, the focus will be on conventional political participation undertaken at the most basic organizational level of local governance in Poland, municipalities.[1]

The first part of the article identifies the essence, institutions, and conditions of political participation. Next, the legal basis and the practice of participation on the municipal level in Poland will be analyzed. This will lead to the conclusion, a formulation of a prognosis regarding the subject matter. In the process of writing the article, literature analysis and critique, and the institutional and legal, and comparative methods of analysis were particularly useful.

Political participation - essence, institutions, conditions

When considering political participation, the primary issue regarding engagement is voter turnout and elections. Modern democratic states function based on the activities of state representatives which is why the procedures that lead to their appointment has a very important position in the institutional structure of a democratic political system. "In modern democracies, participating in elections is the most important way in which the citizens exert influence on the states' functioning" (Rachwał, 2012, p. 227). However, it is not only elections that enable citizens to participate in politics. B. Pająk-Patkowska notes in her article about why people participate in politics, that "most of us associate political activity with influencing the political sphere through elections but there are many other forms of influence as well. In addition to the conventional ways

[1] "The basic unit of local governments in 1990 became municipalities" (Kornaś, 2003, p. 140).

of exercising influence (utilizing the mediation of political institutions), such as taking part in elections or referendums, there is a litany of direct forms of influence (the unconventional activities) including demonstrations, picketing, marches, or strikes" (Pająk-Piątkowska, 2017, p. 10).

Political participation may occur in a conventional or unconventional form. The former involves the use of political institutions such as elections, referendums, popular initiatives, public veto, public consultations, and public assembly (used occasionally). An example of unconventional political participation, on the other hand, would be taking part in a protest or a strike.

Of the different forms of conventional political participation, elections, referenda, popular initiatives are the most commonly used. Elections are elements of indirect democracy whereas referenda and popular initiatives are classified as direct or semi-direct democratic processes, depending on the methodological models taken into consideration (see more: Rachwał, 2016a, pp. 13-27). Contemporary nation-states are usually characterized by vast territories and large populations, making it exceptionally difficult to hold popular assemblies at this level. However, at local and regional levels the situation is much more conducive to such procedures, as exemplified by Landsgemeinde, which is still practiced in two Swiss cantons. "Landsgemeinde, or popular assembly, is an example of the full implementation of democracy that involves the participation of every citizen in addressing the most important issues" (Kużelewska, 2017, p. 74).

Elections make it possible to establish the composition of representative bodies, and so the citizens appoint people, who then make policy decisions on their behalf (see more: Rachwał, 2017, pp. 51-86). The essence of the institutions of direct and semi-indirect democracy is the citizens independently making decisions or expressing their opinions regarding particular socio-political matters. Usually, when discussing different forms of direct democracy, referendum is first indicated. Due to referendum, "the whole electorate has an opportunity to express whether they are 'in favor of' or 'opposed to' a proposition that has been addressed to them" (Antoszewski, 1997, p. 213). Currently, citizens of democratic states decide on national policy regarding systematic issues or matters regarding European integration, among other things, by referendum. The issue regarding who is capable of calling for a referendum is significant for citizens. Giving this right to the citizens themselves strengthens their position in the decision-making process (however, the right to call for a referendum is usually reserved for the political elite). Popular initiative is also important in contemporary democratic countries and can "take the form of legislative initiatives (to amend the constitution or to introduce and adopt a bill or resolution), initiatives to conduct local or national referenda, and

initiatives for public authorities to take other actions on a local or national level" (Kuciński, 2018, p 10).

Popular initiatives make it possible for citizens to influence the governmental functioning of the state or local communities by undertaking several forms of activity. Popular initiative is the right to initiate legislative proceedings. The citizens are able to present their representatives with a draft of a constitutional amendment, bill, or resolution. Specific political systems may only include certain aspects of popular initiative, such as a state offering its citizens the right to make a legislative initiative regarding a bill, but not constitutional amendment initiative. Popular initiative also allows for the possibility to initiate a referendum at a national or local level. Citizens of a state or local community members may request to organize a referendum on a given matter. Another issue is the effectiveness of popular initiatives because they may occur in a direct or an indirect form. (See more: Uziębło, 2006, pp. 31-32). Indirect popular initiative means that the public authorities maintain control over the decision-making process, while direct popular initiative enables the citizens (the sovereign) to make public decisions independently from the political elites. Such a form of political participation also makes it possible for citizens to formulate other demands for state and local levels of governance.

Political activity is conditioned by demographic, psychological, and contextual variables. The results of the conducted research show that the factors which "differentiate the scope and scale of an individual's engagement in the political sphere are resources determined with such variables as age, education, place of residence, and income. The significance of gender, however, is slowly diminishing (...). Political activity is observed more often among individuals better equipped with psychological resources, such as a belief in political effectiveness, an internal locus of control, higher levels of trust and self-esteem, and an increased level of political sophistication. (...) The political engagement of citizens may also be a reaction to some activities implemented by politicians or as a consequence of other contextual factors, such as cultural values which creates the environment of individual's living or specific situation in which he or she was placed" (Pająk-Patkowska, 2017, pp. 22-23).

The level of political participation in a society is diverse. There are both persons engaged in political parties' activity, those who run for and occupy various offices within public government bodies, as well as people whose political activity is limited to voting sporadically in elections, and those who do not even participate on such basic level. The differences in the levels of political participation are unavoidable, but each democratic political system "must create legal and practical possibilities for a political environment in which all citizens

interested can participate in political life, not just a narrow group of professional politicians" (Antoszewski, 1997, p. 212).

When analyzing the determinants of political participation there are limitations as a result of the expansive territories and big populations of most contemporary democratic states. These factors cause the vast majority of citizens to limit their political engagement to taking part in elections or the occasional referendums. Such limitations play less of a role at the level of the local level of governance. "The smaller a democratic system, the greater the opportunities for citizens to participate and the less need relinquish decision-making rights to representatives" (Dahl, 2000, p. 104). Local governance creates better conditions for a broader inclusion of residents in resolving specific substantive issues than national level. How are these opportunities being taken advantage of in Poland? An attempt to answer this question is the subject of the subsequent paragraphs of this article.

Political Participation at the Municipal Level in Poland - Legal Grounds and Practice

The principle of sovereignty has been constitutionally established. According to Art. 4 of the Constitution of the Republic of Poland of 1997, "Supreme power in the Republic of Poland shall be vested in the Nation. The Nation shall exercise such power directly or through their representatives" (*Konstytucja RP...*, art. 4). The subsequent articles of the Constitution develop the guiding principles and specify how the sovereign elects its representatives or directly exercise its power. Chapter VII of the constitution plays a key role in establishing local self-governments. According to the relevant legal provisions, elections for the local legislative bodies must be universal and direct, while no such conditions are constitutionally required in the case of elections for executive bodies. "Elections to constitutive organs shall be universal, direct, equal and shall be conducted by secret ballot. (...)The principles and procedures for the election and dismissal of executive organs of units of local self-government shall be specified by statute" (*Konstytucja RP...*, art. 169, paragraphs 2-3).

In 1989, Poland began a process of systemic transformation, "a great global social process which reached all facets of the social system" (Blok, 1993, p. 13). This transformation was aimed at introducing a democratic political system, liquidating the Communist Party's power monopoly, implementing a free-market economy, and culturally accepting the values of a new social system.

In the first stage of the systemic transformation, a number of changes were introduced to the political system at a national level. The very dynamic of structural change resulted in the rapid reimplementation of the local self-government system which had been disbanded after World War II. "On 29 July

1989, the Senate adopted a resolution in which the initial concept of establishing local self-government was formulated and a legislative initiative was set in motion" (Nawrot, Pokładecki, 2007, p. 281).

After the restoration of the municipal level governments in 1990, the citizens chose the legislative body in a universal and direct vote, while the executive bodies were chosen indirectly (by the Municipal Councils). This system changed in 2002 when citizens began to directly vote on both the legislative and the executive bodies. The introduction of direct elections of municipal heads, mayors, and city presidents made "governing at this level more personalized and changes relations within the local political system, particularly between the mayor and the Municipal Council" (Bartkowski, 2003, p. 149).

From the beginning of the transformation, voter turnout was low for local elections. The first election demonstrated that the community members did not have much interest in electoral participation at the local self-government level (a similar situation was also observed at the national level). "The necessity to organize local self-government elections as quickly as possible was justified by grassroots pressure. (...) However, the local communities themselves were not very active in the pursuit of change. An indicator of such attitudes was the low voter turnout in May 1990, which amounted to only 42.13%" (Nawrot, Pokładecki, 2007, p. 281). The low turnout was concerning because the 1990 local self-government elections were the first free and democratic elections in Poland since the Second World War. In the subsequent local elections, the voter turnout stabilized at about 40-45%. The majority of citizens still display a passive electoral approach. The implementation of direct election of municipal heads, mayors, and city presidents did not fundamentally affect citizens political engagement and desire to vote.

The Constitution of the Republic of Poland of 1997 also provides for the possibility to utilize referendum at the local self-government level. "Members of a self-governing community may decide, by means of a referendum, matters concerning their community, including the dismissal of an organ of local self-government established by direct election. (...)" (*Konstytucja RP...*, Art. 170). The rules and procedures for conducting a local referendum are specified in a bill enacted on September 15, 2000 (Dz. U. [Polish Journal of Laws] 2016, pos. 400, with later changes). According to the abovementioned legal acts, the subjects of municipal referenda can be as follows (*Ustawa z dnia 15 września 2000 r....*, Art. 2, paragraphs 1-2):

• dismissal of legislative and executive municipal bodies;

• means of solutions for municipal matters that are within the range of competences and tasks of municipal bodies;

• other important matters which concern social, economic, or cultural ties that unite a municipality;

• taxation of residents for funding public initiatives that are within the range of competences and tasks of municipal bodies.

Much like local self-government elections, there is a low voter turnout for municipal referenda. Appeal referenda are the most frequently conducted, of which, in the years of 1992-2014, almost 90% were deemed invalid due to low participation. Without analyzing, in detail, all the premises of this situation, attention should be paid to the existing threshold of attendance also contributes to the absence of appeal votes. It is not unusual for incumbent mayors or city presidents to discourage people from participating in appeal referenda in order to invalidate the procedure (see more: Rachwał, 2011a, pp. 247-260; Rachwał, 2014, pp. 77-98).

Other forms of conventional political participation also exist within municipalities, such as popular referendum initiatives[1], civic legislative initiatives[2], popular consultations (see more: Rachwał, 2011b, pp. 115-127), village general assemblies, general assemblies of the residents of the quarters[3], and civic budgets. In the last few years, the idea of a civic budget has been an object of particularly intense development in Poland (in other countries the procedure is usually described as "participatory budget"). According to the legal definition adopted in 2018 within the Municipal Government Act, "in the framework of the civic budget, citizens decide by direct, annual vote about some of the expenses in the municipal budget. Initiatives selected within the framework of the civic budget are included in the municipal budget resolution. The municipal council, in the process of working on a draft budgetary resolution, may not dismiss or significantly alter the initiatives chosen as a part of the civic budget" (*Ustawa z dnia 11 stycznia 2018 r....*, Art. 1 point 1). The civic budget enables local communities to integrate, and peruse collectively determined investments, for example, road, educational and sport infrastructure (see more: Leszkowicz-Baczyński, 2017, pp. 97-112; Rachwał, 2013, pp. 173-185).

2. A local referendum "is conducted (...) through an initiative of a legislative body of a local government unit or by request of at least: 1) 10% of municipality or county members with legal voting rights; 2) 5% of voivodeship members with legal voting rights" (Ustawa z dnia 15 września 2000 r...., art. 4).

3 It is worth indicating that granting community members the right to initiate resolutions is legally controversial and implemented in some of the municipalities only (see more: Rachwał, 2016b, pp. 21-33).

4 "A resolution-passing organ at the level of quarters (neighborhoods) is a council (...). A quarter's statute may establish that a resolution-passing body in the quarter is a general assembly of members" (Ustawa z dnia 8 marca 1990 r.., art. 37).

Summary

In the period of systemic transformation political participation among Polish citizens in the functioning of their local self-governments remained at a moderate level. This is exemplified by the moderate voter turnout in local elections and low attendance in most of the local referenda. There are certain processes that offer some hope for future improvement regarding political participation. One might, for example, point to the rapidly developing idea of a civic budget. In an increasing number of municipalities, citizens are beginning to participate in determining some aspects (although unfortunately not many) of their budget expenses. This allows them to learn how to collectively implement investment goals, which may result in higher levels of participation in other democratic procedures in the future. The scope of currently practiced and designed participatory procedures is continuously being developed (See more: Damurski, 2017, pp. 123-133; Magiera, 2017, pp. 135-142). Nevertheless, changing the perceptions of politics (including local politics) and internalizing the value of political participation is a long-term process.

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Streszczenie

Celem artykułu była analiza uwarunkowań i instytucji partycypacji politycznej na poziomie samorządu terytorialnego (w szczególności gminy) w Polsce. Wyniki przeprowadzonych badań wskazują, iż pomimo rozszerzania się możliwości instytucjonalnych mieszkańcy w stopniu umiarkowanym angażują się w funkcjonowanie gmin. Zmiana przyzwyczajeń i wzrost wartości partycypacji politycznej wymaga jednak czasu. Dlatego też należy mieć nadzieję, iż obserwowany obecnie wzrost zainteresowania m.in. ideą budżetu obywatelskiego przyczyni się w przyszłości do wyższej frekwencji w wyborach czy referendach gminnych.

Słowa kluczowe: *partycypacja polityczna, samorząd terytorialny, gmina, demokracja bezpośrednia, demokracja przedstawicielska.*

Резюме

Цель статьи – проанализировать условия и институты политического участия в местном самоуправлении (особенно на муниципальном уровне) в Польше. Результаты проведенных исследований показывают, что, несмотря на расширение институциональных возможностей, жители недостаточно участвуют в функционировании муниципалитетов. Изменение привычек и повышение ценности политического участия требуют времени. Поэтому следует сохранять оптимизм в отношении

того, что нынешнее повышение интереса, например, к идее гражданского бюджета, будет способствовать повышению явки избирателей на будущих выборах или референдумах на муниципальном уровне.

Ключевые слова: *участие в политической жизни, местное самоуправление, муниципалитет, прямая демократия, представительная демократия.*

Анотація

Мета статті - проаналізувати умови і інститути політичної участі в місцевому самоврядуванні (особливо на муніципальному рівні) в Польщі. Результати проведених досліджень показують, що, незважаючи на розширення інституційних можливостей, жителі недостатньо беруть участь у функціонуванні муніципалітетів. Зміна звичок і підвищення цінності політичної участі вимагають часу. Тому слід зберігати оптимізм щодо того, що нинішнє підвищення інтересу, наприклад, до ідеї громадянського бюджету, сприятиме підвищенню явки виборців на майбутніх виборах або референдумах на муніципальному рівні.

Ключові слова: *участь у політичному житті, місцеве самоврядування, муніципалітет, пряма демократія, представницька демократія.*

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PECULIARITIES OF CLIENTELISM'S INFLUENCE ON POWER PROCESSES IN UKRAINE DURING THE DECENTRALIZATION REFORM

Summary

In this article, the authors analyze patron-client relationships (clientelism) in Ukraine during the decentralization of power and reformation of local self-government.

Clientelism is defined as a system of relationships in which the authorities begin to serve the interests of "clientele groups" (characterized by the closedness and hierarchy of the structure, the informal nature of interaction in the struggle for the right to control resources), in which they are patrons, and people (clients) are supporters dependent on them.

The authors of the article conclude that clientelism is a social phenomenon that exists at all levels of government (central, regional, and municipal) in the current conditions of socio-economic situation in Ukraine.

One of elements of the decentralization reform is transferring a significant part of the powers and resources from the executive authorities to local self-government bodies. This increases the interest of clan groups in united territorial communities. Therefore, the political struggle at the local level takes the clan (clan-client) character and aims to establish control of individual groups (oligarchs, local business elites, politicians, parties) over local resources.

The destructive character of clientelism is manifested in the fact that it exacerbates the struggle of oligarchic clans for access to state resources, allows concentrating enormous economic resources; promotes the creation of parallel shadow structures, the spread of corruption and its manifestations such as protectionism, nepotism, paternalism, kroonism ('kumivstvo'), etc.

The authors of the article propose ways to counter clientelism at micro and macro levels. According to them, the political will is the main precondition of success in countering clientelism. It is possible to confront the manifestations of clientelism at the local level (at the level of united territorial communities)

when the local community is interested in preserving its autonomy both from clan attacks and institutions of regional political power.

Keywords: *clientelism, patron-client political relationships, decentralization, local governance reform, territorial community.*

Introduction

Ukraine as a state needs to modernize not only the system of public administration, but also to develop technologies, especially innovative economy at the local level (region, territorial community - municipal entity) in the process of European integration. It is vital, because during the years of independence some of the opportunities were lost. Therefore, the local level should become the foundation of social-economic change in the country.

Neopatrimonialism (Shykyak, 2008, p. 121) as the system of client relationships is a form of personal dependence of a contractual nature. It was formed in Ukraine during the presidency of Leonid Kuchma (1994-2004). The President effectively controlled the entire system of state supervision through his supporters who received access to the necessary resources, "profitable" positions, jobs, licenses, contracts, protection from prosecutions, etc.

Henry E. Hale defined such system as a "patronal presidentialism" (Heyl, 2008, p. 7). In such system, the state is actually an instrument for realizing the private interests of officials and businesspersons associated with them.

Such patron-client system in Ukraine is structured based on regional, branch, family ties. It creates a complex pyramid of patronage-client relations. The head of state and the closest and personally devoted to him persons who occupy key positions in the state apparatus are at the top of this pyramid.

Hopes of Ukrainian people for reformatting patron-client political relations in the country were associated with the President Viktor Yushchenko. However, according to Y. Machiyevsky and I. Sobchuk, "hopes have not been justified for at least two reasons. First, new people in power quickly adopted dominant practices (such as the leader of the PORa political party Vladislav Kaskiv). Secondly, the President himself was not determined to implement reforms. He entered into a competitive struggle for powers with the Prime Minister Yulia Tymoshenko. This struggle contributed to the disappointment of most Ukrainians in the "democracy". The patron-client network during Viktor Yushchenko's time did not disappear, but it transformed from a monocentric into a two-centric one" (Matsievskiy, Sobchuk, 2014, p. 2-3).

Patron-client relationships became widespread in Ukraine under the presidency of Viktor Yanukovych. A monocentric clientele network was formed, headed by Viktor Yanukovych's clan, which became the central link in the chain

of patron-client relationships. As G. Korzhov identifies, the clan is a "political and economic grouping, where economic resources are used for the expansion of political power, and the latter, in turn, for the further strengthening of economic power" (Korzhov, 2008, p. 113). Yanukovych's clan controlled patronized groups and individuals, using them against each other, while retaining the role of supreme arbiter.

After the "Euromaidan", the main slogan of which was "Gang should go", new oligarchic clans came to power instead of the old ones. They also use state institutions to achieve their narrowly private goals as Yanukovych's clan did before them. The proposed reforms, which had to change the rules of the game for all actors of public policy, gave rise to even more corruption. Oligarchic clans are the central link in the patron-client relationship system, which extend from the center to the local, regional level, and are implemented by individual and collective actors in the patron-client model, connecting personal dependence and domination with mutual services and solidarity. Their activities are based on family ties, personal friendship, acquaintance, blat, and they cover the entire structure of state authorities, the economy. Therefore, clans contribute to self-reproduction, dissemination and strengthening the system of patron-client relationships in society not only at central, but also at regional and municipal levels.

Analysis of recent research

Such foreign and domestic scholars as A. Borscheva (Borscheva, 2011), A. Kopystyra (Kopystyra), G. Korzhov (Korzhov, 2008), Y. Machievsky and I. Sobchuk (Matsievskiy, Sobchuk , 2014), O. Polishchuk (Polischuk), V. Rymskiy (Rymskyi), G. Heyl (Heyl, 2008), S. Shykyak (Shykyak, 2008), and others study some aspects of this question. The theory of neopatrimonialism, whose representatives in Western science are considered to be Shmuel N. Eisenstadt, G. Roth, R. Theobald (Eisenstadt, 1973; Eisenstadt, Roniger, 1984; Roth, 1968; Theobald, 1982), is the conceptual basis of this work.

Research goals

The theoretical and practical analysis of patron-client relationships in Ukraine during the decentralization of power and reformation of local self-government is the purpose of the article. Additional goals of this paper are the clarification of the essence of clientelism, its role at central, regional and municipal levels, especially at the level of the united territorial communities as well as the determination of its results for the development of national statehood.

Results

The term "clientelism" was used in ancient Rome in the second century B.C. The informal connections between the patron and the client, when the

client received certain benefits from the patron, and the patron received client's support in the competition for public office was understood as clienteles (clientelism) in those days.

This term was used in the Political Science in the end of the 1950s-1960s. Clientelism (lat. Cliens - obedient) - the external form, is the functioning of the political system as a hierarchy of power clans, within which the "client-patron" type of relationship exist (Natsionalnaya politicheskaya entsiklopediya). A clan is a form of internal and external organization of the regional elite, its personal vertical relationships, which provide power interactions and the exchange of resources (Biryukov, 2009, p. 64). The patron-client relations is a stable social network of personal relationships in the form of a network of relations of political loyalty and mutual obligations that connect members of different social strata (Roskin, Cord, Medeiros, Walter, 1997, p. 61).

Political scientists apply the term "clientelism" to developing countries. They believe that clientelism impedes the modernization of society; it is a specific model of social organization and integration of society at the local level, within the personal relationship between patron and clients. As G. Korzhov emphasizes, originally researchers attributed it to societies that retained an essential component of traditionalism in their mainly modern social and institutional structure (Korzhov, 2008, p. 113). It was assumed that the developing society becomes more open in the conditions of democratization, modernization of society and decentralization of state power. Therefore, such society eliminates grounds for clientelism and patron-client relationships.

At the same time, researchers emphasize that the concept of clientelism does not have a definite definition. Thus, it can be seen in three dimensions. Firstly, it can be understood as a social phenomenon characterized by the formation of relations of domination, supremacy, subordination, dependence and independence on the principle of patron-client relations (Shlyachtun , 2002, p. 364). Secondly, it can be seen as an interaction (vertical relations) between political actors of different levels, as interactions between patron and clients that are connected with the functioning of institutions of power (Matsievskiy, Sobchuk, 2014, p. 3). Thirdly, it can be seen as the interaction in the framework of horizontal relations, that is, as patron-client relationships, which provide the participants with the necessary resources (Eisenstadt, Roniger, 1984).

Today, clientelism is present in the bodies of public administration. The struggle of oligarchic clans for the resources of the state is exacerbated currently in the state by the help of the political parties financed by them. The political parties make populist promises to voters. The parliament of Ukraine is the platform for populist PR actions of politicians.

S. Stokes emphasizes that clientelism is a way of mobilizing electoral campaigns, offering material goods in exchange for supporting an election campaign. According to this researcher, the "offer of material goods" actually sometimes takes the form of threats, and not the motives, from government's side. It threatens to refrain from improving housing construction in areas where legislatures are elected (Singapore), from parties (in Naples and Palermo), or from a local tycoon threatening citizens who vote against his favorite candidates (Mississauga, Argentina 2006). According to S. Stokes, distribution criterion of electoral support distinguishes clientelism from other material-oriented political strategies (Stokes, 2013).

In V. Rymskiy's opinion, clientelism is a social phenomenon that combines actions of various subjects according to socio-political and economic status. They form a collective action in achieving the set goal and satisfying their needs (Rymskiy, 2018). Such relationship consist of a patron who has the appropriate resources to provide services and solve local issues, and clients (individuals, population, organizations) who receive these services and give electoral support to patron.

V. Rymskiy characterizes the "electoral behavior" of the population as "a system of interrelated reactions, actions or inactivity of citizens, carried out in order to adapt to the conditions of conducting political elections" (Rymskiy, 2017). He thinks "voters, as a rule, consider candidates as their patrons, whom they entrust their own defense … therefore, voters are well aware that their representative, whom they support in the elections, must be able to protect their interests, and to do that this representative should have an access to appropriate resources: power, financial, material and others" (Rymskiy, 2017).

Due to this S. Biryukov emphasizes that clientelism is a specific type of informal institution, which complements formal-institutional (formal-legal) structures of power or replaces them in the situation of radical power transformations, political and legal uncertainty, when the latter lose their functions (Biryukov, 2009, p. 66).

The struggle of oligarchic clans in Ukraine exacerbates the political struggle. It all happens in the context of hostilities in the East of the country, the economic crisis and the reduction of production. The deterioration of the country's social and economic situation has resulted in large internal migration (1.4 million people from the occupied territories) to territories that are more suitable for living: Kiev, Odessa, Lviv, Dnipropetrovsk etc. Internal migration exacerbates pressure on local labor markets where the number of jobseekers exceeds the number of vacancies even without migrants (Abramenko, 2015).

Besides that, mass labor emigration increases in Ukraine. According to the World Bank, more than 6.5 million Ukrainians study and work outside the Motherland, and Ukraine is the fifth largest country in the world in terms of the number of emigrants (Bezzub, 2018). Studies show that predominantly people between the ages of 20 and 40 leave Ukraine. Moreover, 65% of the migrants are men, 35% are women. The most common types of economic activity of labor migrants are construction (45.7%), households (18.3%), agriculture (11.3%) and trade (9.1%) (Figure 1) (Bezzub, 2018). That is, the able-bodied population that should create an internal gross product leaves the country in a search of a better life. These people do not have appropriate living and working conditions in their Motherland, because people in power have not created them. Instead of using this great human potential to develop our own country, we easily give it to other countries. As a result, Ukraine has a huge imbalance between able-bodied people and categories who need social assistance.

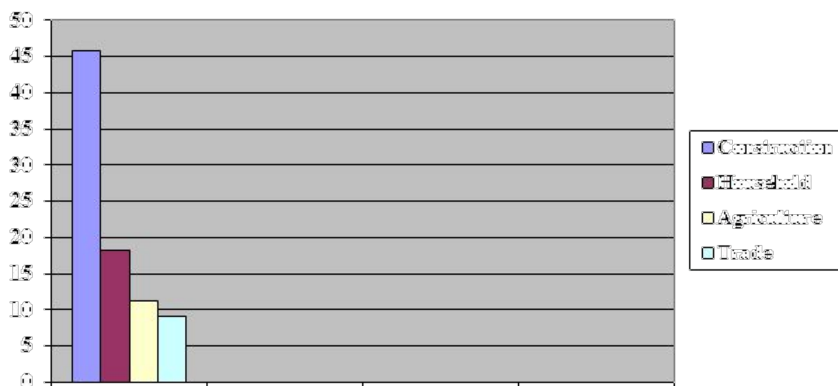

Figure 1. Types of Economic Activity of Labor Migrants from Ukraine (Bezzub, 2018)

Thus, the situation with labor resources is evident not only in terms of the loss of own highly skilled workforce, but also in terms of responding to economic and political changes not only in Ukraine, but also in countries where the migration flow is directed. In particular, people want to take advantage of more favorable economic conditions in more developed countries.

The Russian Federation, Poland, Italy, the Czech Republic, Hungary, Belarus, as well as Portugal, Spain, Germany are countries that accept labor

force from Ukraine (Table 1). The residents of the border regions (Western Ukraine up to the Khmelnitsky region and the East) most actively go abroad to work.

Table 1

Countries that accept labor force from Ukraine

№	Recipient countries	The number of Ukrainian immigrants, in percentage
	The Russian Federation	43,2
	Poland	14,3
	Italy	13,2
	the Czech Republic	12,9
	Spain	4,5
	Germany	2,4
	Hungary	1,9
	Portugal	1,8
	Belarus	1,8

Source: (Bezzub, 2018)

At the same time, researchers note that in recent years, the vector of external migration has been changing. Nowadays, more and more Ukrainians emigrate to the countries of the European Union (about 60% of labor migrants). According to the GFK study, 500,000 people officially migrated only in 2015. However, not all migrants officially leave according to work visas. Respectively, the real figure may be higher by 40% (Abramenko, 2015).

The abovementioned numbers of labor migration are impressive. Moreover, they help to understand that it is hard to revive the Ukrainian economy and to ensure a high standard of living for citizens of the country without the availability of able-bodied population.

The corruption grows in the country because of the imperfection of public administration system, legislation, deformation of moral and ethical norms, and inhibition of reforms. The core of corruption is that employees use their official duties in their own or group interests. Such practice further disrupts socio-economic relations. Ukraine is ranked 131st out of 176 countries this year in the Worldwide SRI rating (Impunity and Inefficient Justice System, 2016).

The corruption in modern Ukraine has an impact on all major spheres of state and society. It is characterized by diversity and high organization of forms

such as bribery, lobbying, abuse of office, theft of budget funds, state resources, etc. For example, the total amount of bribes in 2014 was 16 million UAH, and in 2015, it amounted to 19 million UAH (Koruptsiya v Ukrayini, 2016). Thus, corruption becomes a mass phenomenon of socio-economic, political and legal life of Ukraine.

We think that the spread of corruption contributes to the formation of clientelism, but clientelism is in its turn a fertile ground for the development of corruption. Moreover, the patron-client relationship is the foundation of social mechanisms that ensure the existence and expansion of corruption. The clientelism in power promotes the development of hierarchical patron-client, corrupt links, activates activities of the structures of the shadow economy, which use their own resources to finance shady politics. However, in the conditions of European integration, the Ukrainian state has undertaken certain commitments regarding the democratization of the political system, the reform of state power aimed at adapting the public administration system to the EU standards, and the increase of citizens' participation in governing both the state and specific territories.

On April 1, 2014, the Cabinet of Ministers of Ukraine, by its decree, adopted the Concept for the Reform of Local Self-Government and Territorial Organization of Power in Ukraine. The Concept provided for the transfer of significant powers and budgets to local self-government bodies. That means that it gave as much authority as possible to bodies that are closer to people and where such powers can be used most successfully.

A number of basic normative documents, which created the prerequisites for real decentralization steps, were adopted: On June 17, 2014, the Law of Ukraine "On Cooperation of Territorial Communities", The Law of Ukraine "On Amendments to the Tax Code of Ukraine and Certain Legislative Acts of Ukraine on Tax Reform", the Strategy for Sustainable Development "Ukraine 2020", approved by the Cabinet of Ministers of Ukraine in 2014, The Law of Ukraine "On Amendments to the Budget Code of Ukraine on the Reform of Inter-budgetary Relations". The latter Law gave communities the opportunity to feel the benefits of decentralization even before the unification. This is due to the increased opportunities of local budgets.

The above mentioned has led to the fact that own resources of local budgets have almost tripled. The total volume of financial resources has increased by almost 15%, which in nominal terms amounted to 34.1 billion UAH. The funding of education (13%) and healthcare (12%) has increased. In addition, the State Fund for Regional Development will receive 5.7 billion UAH from the state budget this year. Among other things, it includes 1 billion UAH for the implementation of territorial communities' projects (Detsentralizatsia, 2016). To

sum up, it means that besides budgetary funds, one can win a state grant for various projects by submitting corresponding project applications to the State Fund for Regional Development.

However, the adoption of the Law of Ukraine "On Voluntary Association of Territorial Communities" on February 5, 2015, which initiated the process of creation of united territorial communities (hereinafter the UTC), became the main event of decentralization.

Starting from 2015, a decentralized management system is gradually being formed on local territories. United territorial communities that receive the appropriate legal, financial and organizational resources are being created. New political relations are being formed in the framework of local (more precisely regional) political space. The united territorial community becomes an element of regional political space, one of the actors of regional political system by developing formal and informal relations with regional and oblast councils, local state administrations, political parties, business elite, clans etc.

Local "political regime" is formed within the framework of the regional political system during power decentralization. It characterizes the increase of the role of local self-government bodies as political actors (subjects of the political process) of regional policy within the limits of the regional political space. We can state that the UTC changes the state of the economy of their own territory through obtaining legal, financial, administrative and information resources. Moreover, as current developments show, the united territorial community becomes very attractive for business actors who begin to fight for the right to dispose their financial and economic resources.

Let us emphasize that the clan business elite seeks to take a leading position in relations with other actors in the regional political system and to build a clientele mechanism, which is particularly attractive for a significant part of the population. It can maintain its dominant position due to such mechanism.

In these circumstances, the political struggle at the local level takes the clan (clan-client) character. Its goal is to establish the control of certain groups (oligarchs, local business elites, politicians, parties) over local resources, and in conditions of decentralization over the resources of united territorial communities, pursuing own interests, and not the interests of the local population. The interpersonal "patron-client" relationships are formed at the local level, characterized by mutual obligations and inequality in the possession of resources. It leads to the formation of relationships of personal dependence (patron-client), based on needs and interests.

On the one hand, the patron-client model of the relations between business, government, and the population stimulates the investment attraction, the

restructuring of the production structure, creates conditions for employment and the raise of the standard of living of large groups of the population.

On the other hand, the patron-client model generates sharp political conflicts between government and business, when the interests of the business elite are confronted with the will of the region's leader, who has his own economic and political ambitions, and, as a rule, he tends to play a leading role in the "patron-client" model. This happened in Ukraine in the 1990's when the heads of administrations through the clientele mechanism on the principle of personal devotion directed the processes of institutional development in the regions in a convenient for them way.

Thus, the reform of local self-government, when most of the powers and finances for their implementation are transferred to the level of communities, proved to be effective even though many did not believe in it. For example, local budgets were increased by 26.9 billion UAH in 2015 (Detsentralizatsia, 2016).

The share of local expenditures at the level of more than 45% of national expenditures is an indicator of a high level of decentralization. Local budgets have been receiving the following new types of transfers from 2015: educational subvention, subvention for worker training and medical subvention. In 2015, the general fund of local budgets received 99.8 billion UAH, which is 116.0 per cent to annual allocations approved by local councils. In 2015, 174.0 billion UAH transfers from the State Budget of Ukraine to local budgets were granted. It is by 43.4 billion UAH, or by 33.2 percent more than in 2014, including transfers from the general fund - 173.2 billion UAH, which is by 56.4 billion UAH, or by 48,3 percent more compared with 2014 (Makarchuk and others, p. 644).

All this led to the fact that in 2016, according to Deputy Prime Minister Gennady Zubko, in his interview on TV channel "112 Ukraine", "forty two political parties joined the electoral process out of four hundred registered in Ukraine. Moreover, most importantly, such political parties, which constantly criticized the decentralization by telling how everything was bad, entered the election process" (Shurhalo, 2016).

According to the Internet, the Batkivshchyna Party took the absolute first place, Petro Poroshenko Bloc "Solidarity" took the second place, the Agrarian Party took the third place, "UKROP" political party took the forth place, "Nash Kray" political party took the fifth place in the elections to 47 united territorial communities that took place on April 30, 2017 (Figure 2) (Batkivshchyna, 2017).

The oligarchic clans stand behind political parties. These oligarchic clans form the patron-client relationship through vertical ties not only at the central, regional, but also at the municipal level. Parties have an ability to exercise control over both state authorities and local self-government bodies. They

promote their supporters (party members) and representatives of oligarchic clans to positions in these bodies. In such conditions, not only individuals but also united territorial communities fall under the influence of clientelism.

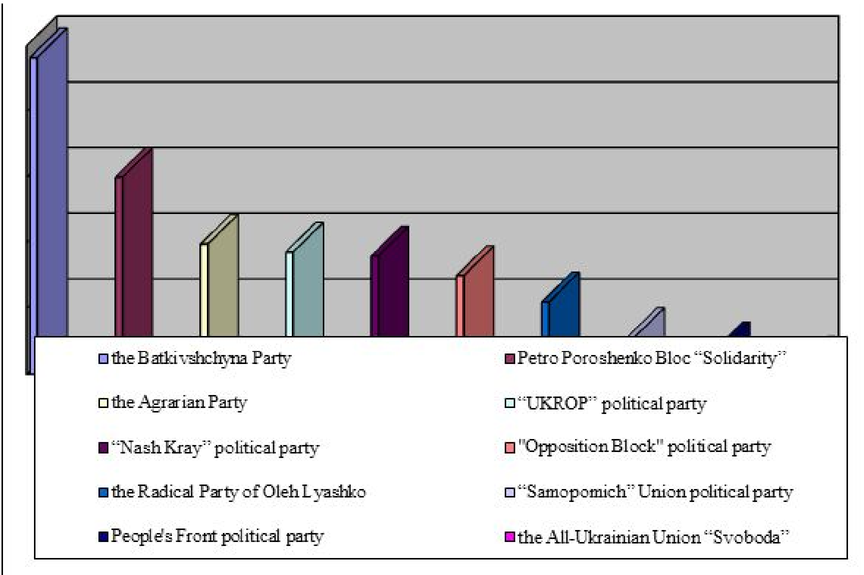

Fig. 2. Information on the election of deputies from political parties at local elections in the united territorial communities on April 30, 2017 (Batkivshchyna, 2017).

We can agree with the opinion of the leader of the Batkivshchyna party that "the big mafia, clan groups took part in the elections with one of the purposes to continue to take Ukrainian agricultural land uncontrollably in their possession through the united territorial communities" (Batkivshchyna, 2017).

The media described these elections as dirty, because bribing voters and the administrative resource were used. The abovementioned leads to the conclusion that politics in Ukraine since independence has become a tool of clan-oligarchic groups that use it for their own benefit. Therefore, the phenomenon of corruption in Ukraine is a component of the relationship between society, business elite and lobbying entities in the form of political parties or non-governmental organizations.

The decentralization reform, which means transferring a significant part of the powers and resources from the executive authorities to local self-government bodies, increased local budget revenues. The President of Ukraine Petro Poroshenko spoke

on the 25th anniversary of the Association of Ukrainian Cities in Kyiv. He noted, "revenues of local budgets in Ukraine have grown by 100 billion UAH since 2014 and they continue to grow." [11] For instance, "revenues of Kiev's budget have increased from about 24 billion UAH in 2014 to 39 billion UAH in 2016, Dnipro's budget - from 3 to 11 billion UAH, Vinnytsia's budget - from 0.5 billion UAH to 3 billion UAH" (Dokhody mestnykh byudzhetov, 2017).

According to the Deputy Prime Minister Gennady Zubko, revenues of local budgets increased by 22 billion hryvnia in the first half of 2017. They amounted to 87 billion UAH. This is the increase by 34% compared to the same period last year. Three hundred sixty six united territorial communities have almost doubled their own revenues from local budgets, which amounted to 3.9 billion UAH (the increase is by 1.9 billion UAH). The average indicator of revenues per one resident of united territorial communities amounted to 1256 UAH (the increase is by 616 UAH). Revenues of the general fund of local budgets, taking into account inter-budgetary transfers from the state budget, amount to 9 billion UAH (Nadhodzhennya v mistsevi byudzhety zrosly na 22 milyardy, 2017).

The Prime Minister of Ukraine Volodymyr Groisman highlights the concrete results of decentralization on his Facebook page: "for example, revenues to local budgets grew by 31.1 billion UAH or by 30% for 9 months of 2017 compared to the same period in 2016. Moreover, revenues of local budgets of three hundred sixty six united territorial communities grew by 82.7% and amounted to 6.3 billion UAH" (Nadhodzhennya do mistsevykh byudzhetiv za 9 misyatsiv 2017 roku, 2017) (Table 2). Thus, according to the President of Ukraine, local budgets' own revenues "will soon exceed the state budget" as the result of the decentralization reform (Prezydent, 2017).

Table 2

The Structure of Revenues of Three Hundred Sixty Six United Territorial Communities (January-September 2017)

№	Taxes	Amount	+/- increase, decrease	
1.	Income tax	3.6 billion UAH	+ 2,4 billion UAH	in 3 times
2.	Fee for land	1,1 billion UAH	+ 180,0 billion UAH	+ 20,2%
3.	Excise tax	426,8 billion UAH	- 95,3 billion UAH	- 18,3%
4.	Single tax	862,4 billion UAH	+256,3 billion UAH	+ 42,3%
5.	Immovable property tax	97,0 billion UAH	+39,8 billion UAH	+69,5%
	Total	6,3 billion UAH		

Source: (Nadhodzhennya do mistsevykh byudzhetiv za 9 misyatsiv 2017 roku, 2017)

For the first time in the history of Ukraine, local budget revenues for the 9 months of 2017 amounted to 50% of the total state budget. As noted by the Vice Prime Minister, the Minister of Regional Development, Construction and Housing and Communal Services of Ukraine Hennady Zubko, “the budget revolution of the government has shown the progress of the reform and its ability to increase the budgets of local communities. The finances of local budgets are projected for three years for the first time. For instance, 170 billion UAH of local budgets’ revenues are for 2017, 248 billion UAH are for 2018, 270 billion UAH are for 2019, 284 billion UAH are for 2020» (Zubko, 2017) (Figure 3).

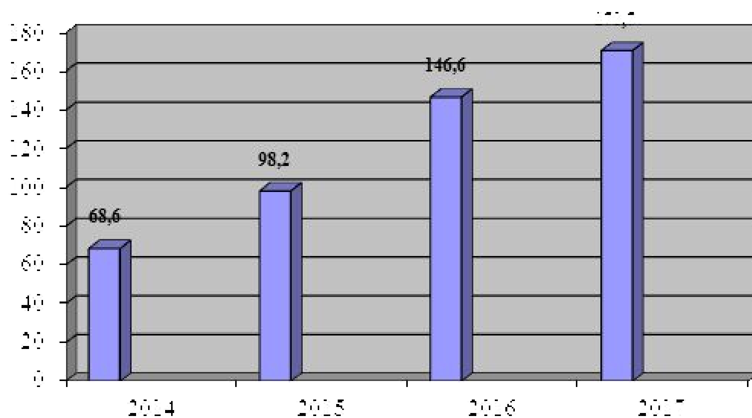

Figure 3. Growth of Local Budgets (in billions UAH)
Source: (Zubko, 2017)

Hennady Zubko states, “the state supports communities by providing additional financial instruments. The state aid to communities in 2017 is a subvention for the development of united territorial communities’ infrastructure (1.5 billion UAH), the State Fund for Regional Development (3.5 billion UAH), a subvention for socio-economic development (4 billion UAH). In the detail, the government directed 1.5 billion UAH on the formation of united territorial communities’ infrastructure in 2017”(Zubko, 2017) (Figure 4).

The Vice Prime Minister Hennady Zubko stresses that communities have “funds for the rehabilitation of social facilities, reconstruction and repair of streets, roads, bridges, introduction of energy efficiency measures, and the purchase of vehicles. They have funds for making life in communities more comfortable, and changes more tangible” (Zubko, 2017).

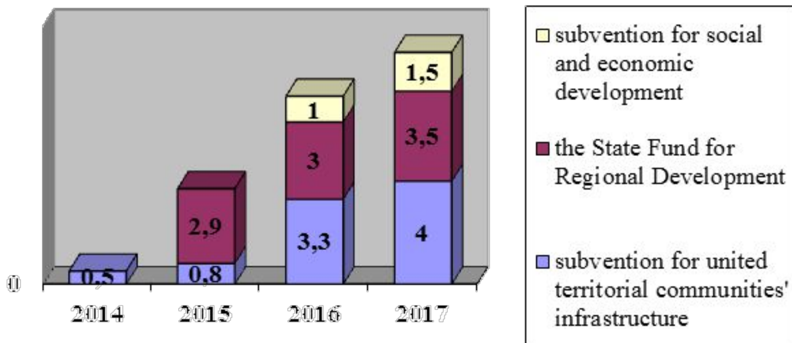

Figure 4. State support of united territorial communities
Source: (Zubko, 2017)

This situation increases the interest of clan groups in united territorial communities. Therefore, the political struggle at the local level takes the clan (clan-client) character and aims to establish control of individual groups (oligarchs, local business elites, politicians, parties) over local resources.

The leader of the Batkivshchyna party stated that the party "participated in the elections to united territorial communities only in order to prevent the reduction of village network, to protect small villages, not to allow stealing the Ukrainian land" (Batkivshchyna, 2017).

The Agrarian Party, whose leader is Vitaliy Skotsyk, is in the top three political forces by the number of nominated deputies in united territorial communities in all territories of the state. Vitaliy Skotsyk notes: "we have three main slogans: land for communities, funds for communities (i.e. resources in general) and power for communities. These are the main three components that enable communities to be truly effective" (Agrarna partiya, 2017).

He is right that the main resources of community development are the means and the land that should be handed over to people. However, the question is which people will dispose of these resources and in whose favor.

As an example, we provide data from the site "Chas Chernigovsky", where the preparation for the election of united territorial community in the village Komarivka of Borznyansky district of Chernihiv region on April 30, 2017 is described. The united territorial community of Komarivka (12 settlements: Komarivka, Berestovets, Illintsi, Krasnosilsk, Zaporozhye, Prokhori, Shevchenko, Smoljazh, Khovmy, Vorono, Linovka and Sidorivka) is the first united territorial community in Borznyansky district. The Radical Party of

Oleh Lyashko traditionally has strong political positions here. A deputy of the Chernihiv Regional Council, a longtime colleague of Lyashko Anatoliy Khavilo came to Komarivka for a general meeting on March 17 (report of the Komariv village chairman on work in 2016). His presence means that the Radical Party will seriously claim victory in this community" (Polityka I obyednani gromady, 2017).

The Decentralization website of the Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine repeats the above information. Still, it emphasizes, "the position of the political party "Nash Kray", which is being cared for by MP Valery Davydenko (who was running in 2014 from political party "Zastup)", has intensified in Borznyansky district in the past two years. Nikolai Pirkovskyi, the largest local representative of agribusiness, heads the branch of the Ukrainian dairy Company. The result of election races may also depend on his position. There is information that Viktor Bondarenko, deputy head of Borzny district administration, will take part in the elections. He has been the head of the local administration for almost two years" (Detsentralizatsiya. Ministerstvo reg. rozvytku, 2017).

The struggle for deputy mandates also increases in urban united territorial communities, not just rural ones. The article "Leading Parties in the Number of Candidates in the Urban United Territorial Communities" states that the largest number of candidates for elections in the united communities is run by the Batkivshchyna Party and Petro Poroshenko Bloc "Solidarity". In particular, it concerns urban community communities. Eight electoral campaigns (from 25.10.15 to 29.10.17) in united territorial communities, in which 2,300 city council deputies were elected, were organized during three years of decentralization reform. Generally, Petro Poroshenko Bloc "Solidarity" nominated 2,271 candidates for city councils of united territorial communities during this time, the Batkivshchyna Party - 2261, which significantly exceed figures of other parties. The Radical Party of Oleh Lyashko (1703 candidates) is in the third place by the number of nominees, the Agrarian Party of Ukraine (1410 candidates) is in the fourth place, the All-Ukrainian Union "Svoboda" (1203 candidates) is in the fifth place. Moreover, Petro Poroshenko Bloc "Solidarity", the Batkivshchyna Party and the Radical Party of Oleh Lyashko are the only parties that nominated candidates to the deputies of urban united territorial communities in all eight election campaigns. The Ukrainian Union of Patriots "UKROP" (1130), "Opposition Bloc" (1099) and "Nash Kray" (1061) have nominated somewhat fewer candidates for three years. Petro Poroshenko Bloc "Solidarity" nominated 686 candidates for the deputies of city councils and the Batkivshchyna Party nominated 691 in the elections of October 29, 2017,

which were organized in 25 cities of rayon significance. In total, 18% of political parties (63 of 350 registered in Ukraine) have nominated at least one candidate for urban united territorial communities over three years of decentralization reform (Partiyi-lidery za kilkistyu kandydativ u miskykh OTG, 2017).

As one can see, the results of the elections to the representative organs of united territorial communities are quite demonstrative. Therefore, it is understandable that all conflicts, divergences of interests, inconsistencies in the process of forming united communities in the regions are a struggle for the resources provided by united territorial communities. Moreover, slogans, speeches by party activists are nothing more than working out the money that they have received and will still receive when stealing the budgets of united territorial communities.

All these local events characterize the formation of a local political regime. The local business elite (financial-industrial groups) control it through:

- subordination of local branches of party organizations to their own interests;

- active participation in the elections to the representative bodies of local self-government of united territorial communities;

- attempts to control and allocate united territorial communities' resources based on their own private goals;

- promotion of the heads and deputies under their control through the party's candidates;

- establishment of control over the activity of the representative body of united territorial community through party organizations.

Thus, clientelism in Ukraine focuses on distribution, not on the production of public goods. According to A. Borshcheva, its formation began in the 1990's in Ukraine. It was generated by economic chaos, because the situation was created in which political forces received votes of voters not as a result of competition, but with the help of "nomenclature privatization" (Borscheva, 2011, p. 203-204).

New economic elites were formed from the private sector (most often because of illegal business operations) in this period of rapid social and economic transition. At the same time, old elites quickly adapted to new realities by controlling the process of restructuring the economy (privatization, regulation, control over permits and issuing licenses, etc.). Reforms in political and economic spheres changed traditional relations between the leaders and the electorate. The patrons also competed among themselves for resources that quickly shrank during a period of economic collapse of that time. Finally, transition led to hostility from the broad masses of the population to the political

elite because of its privileges. It also caused general distrust of the population in local leaders. In some places, it took the form of an active counteraction to the old elites and the support of political parties and opposition groups that were formed in the early 1990s (Borscheva, 2011, p. 205). All this just contributed to the formation of relations of clientelism.

The clientelism is a specific form of the vertical network, within which the official government institutions and their leaders occupy the position of privileged actors ("patrons"). They monopolize access to political resources. Other actors of the regional political system receive the position of dependent actors (clients). They are forced to engage in an "unequal exchange" with power institutions of different levels in order to gain influence on the decision taken by the authorities and on taking into account their interests in public policy, formed by the authorities.

Clientelism in Ukraine is a system of relationships in which the authorities begin to serve the interests of "clientele groups" (characterized by the closedness and hierarchy of the structure, the informal nature of interaction in the struggle for the right to control resources), in which they are patrons, and people (clients) are supporters dependent on them.

Thus, patron-client relations, both at the central and local levels, both in state authorities and local self-government bodies, are formed in conditions of political instability and economic backwardness of society in Ukraine.

The spread of the clientelism in state authorities leads to the domination of personal interests of officials and to a selective redistribution of organizational resources and resources in favor of groups, clans. It imposes its imprint on the implementation of the adopted laws and the quality of public administration system in the country. The clientism, both at the central-state and local levels, leads to the restriction of the interests and rights of citizens as it serves the self-serving interests of the ruling business elite.

We agree with O. Saulak who states "clientelism determines unequal competitive conditions in the sphere of small and medium business. Businesspersons are clients paying for official patron services. They often receive benefits not related to the quality of products and services. At the same time, artificial barriers, skillfully built by corrupt bureaucrats, are made for firms, ready to make better products at lower prices" (Saulyak, p. 33).

Due to the fact that clientism "focuses on the distribution, not on the production of public goods," it "has a devastating effect on the collective action of social groups that produce public goods; social and political inefficiency is inherent to it; it leads to the spread of cynicism, which destroys public morality" (Polischuk, p. 283).

In our opinion, in modern conditions, clientelism is simultaneously a special type of network structure, and as a mechanism complementing the official government institutions and mechanisms of public policy in the structure of regional government. Protectionism, nepotism, paternalism, favoritism, kroonism ('kumivstvo') (Oxford English Dictionary), corruption, co-optation, patronage are the most typical forms of manifestation of clientelism in state authorities and local self-government (Table 2).

Table 2

Forms of Manifestation of Clientelism

Forms of clientelism	**Characteristics**
Protectionism	is the protection given to the leader by his «people» who are personally devoted to him and ready to support him in any situation, that is, relatives, friends or acquaintances when they are appointed to public administration bodies, or local governance bodies
Nepotism	(from the Latin. Nepos - grandson, nephew) is an official patronage of friends, relatives, granted on the basis of family relationships, not achievements
Paternalism	a system of stable relations between the worker and the state, when an employee is given the opportunity to meet the minimum needs in exchange for job
Favoritism	(from the Latin favor - commitment) patronage by the head or other high-ranking person to their favorites, giving them high positions, privileges, power opportunities and powers
Kroonism ('kumivstvo')	the appointment of friends or associates to positions in government without proper consideration of their qualifications
Corruption	(from the Latin corrumpere - spoil) is the use by employees, public and political leaders of their rights and official capacities for the purpose of personal enrichment
Co-optation	(lat. cooptatio - additional election) - the introduction into the electoral body of new members or candidates by the decision of this body without additional elections
Patronage	support, incentives, privileges and financial assistance provided by a person or organization

Source: developed by the authors

The client-clan relations can be interwoven with family ties and supplemented by protectionism and nepotism. This situation does not

contribute to the efficiency of power institutions. The clientelism has a lot in common with these phenomena. Some researchers point out that favoritism, nepotism ('kumivstvo'), blat, patronage, bribery, and trade of influence became particularly widespread among forms of corrupt transactions during 1991-2013 (Kopystyra, 2013). According to H.-J. Laut, corruption in manifestations of 'kumivstvo', patronage, clientelism, mafia, and autocratic click prevents democratic development (Lauth, 2000, p. 28).

In our opinion, clientelism in Ukrainian society shows the destruction of forms of social solidarity. In addition, such repressive forms of clientelism appeared as:

- Bureaucratic clientelism is a system of social relations, when a group (organization, political party) acts as a collective patron, around which a network of clientelism ties that control the state apparatus is formed.
- Electoral clientelism is a part of society that becomes a stable client (clientele), which is prone to the influences of the particular party and uses its voice in the elections as an instrument of pressure on the party (its representatives) to gain some benefit for itself.

In the conditions of clientelism, success in business depends not on the effectiveness of the main manager, but on his close, friendly relations with government officials. The benefits of favoritism appear in the distribution of legislative permissions, government subsidies or special tax privileges.

Thus, although clientelism allows solving some problems of the regional community, in the end it generates a large number of problems. This is because it ignores such mechanisms of democracy as separation of powers, separation of ownership from governance, autonomy of structures of civil society in relation to power and political structures (Braud, 2004, p. 67).

With regard to the local level, clientelism at this level manifests itself in the formation of a client's model of local self-government. The political instability in the country and the economic backwardness of society influence its formation. This is because in such conditions people are forced to focus on current problems ignoring the long-term prospect.

In addition, the processes of decentralization and democratization that take place in the country allow using democratic institutions to form a clientele model of local self-government, in which social relations are regulated through consensus between the patron and the client. In addition, the existence of clientelism at the central (national) level contributes to its spread to the municipal level.

When considering clientelism, the causes of its occurrence are analyzed on two levels. The first level is the macro level that is the central level (society as

a social system, which determines the most common causes of clientelemosis). The second level is micro level that is the level of state organization (social subsystem, which determines the specific causes of clientelism).

The most important reasons for clientelemosis at the macro level are:

- absence of political will to fight against clientelism among supreme leaders of the country;
- imperfection of the mechanism of remuneration and control over the distribution of benefits;
- disrespect for the law and administrative norms;
- low administrative and legal security of subordinates to heads at all levels of public administration;
- ignorance of the problem of clientelism in normative documents regulating the civil service;
- lack of proper control and sanctions for violation of organizational norms and rules;
- selection and promotion of personnel based on personal relationships and acquaintances;
- national traditions of acceptance of gifts, provision of services to the right people.

The factors of clientelism at the micro level are:

- the interests of the head (the use of power for personal purposes, the presence in the organization of employers, personally devoted to him and ready to support him in any situation) and his subordinates (interest in good relations with the head, rapid promotion) in the establishment of patron-client relations;
- personal qualities of the head and subordinates (individual or group selfishness of the head and subordinates, conformism of the subordinates);
- micro-politicized culture and organizational structure, characterized by weakness of organizational control, wide unregulated range of actions of civil servants and, above all, the heads.

The change in the orientation of civil servants is the most dangerous destructive consequence of the spread of clientelemosis in bodies of state administration and bodies of local governance. Civil servants then are guided by the personal selfish aims of the leader and his closest people instead of working for the achievement of the goals of the state body or local self-government body. In this case, the authority body becomes only a means to realize individual interests, and patron-client relations are the cover of abuse of power, violations of law and the development of corruption. All this reduces the effectiveness of governance of state authorities, local self-government and the state.

For an effective counteraction of clientelism in state administration bodies and bodies of local governance, it is necessary to eliminate the reasons for its appearance at the micro and macro levels, as well as:

- to reform the traditional model of civil service into public service;
- to apply indicators of the performance of professional service activities in state administration bodies and bodies of local governance and build on them a fair remuneration system for civil servants and local self-government employees;
- to create a regulatory framework for combating clientele. However, there is a need to determine this phenomenon in legal documents in order to do this;
- to introduce a competitive contractual system of admission to the civil service and local self-government bodies;
- to inform the public about the manifestations of clientelism through the mass media;
- to explain to the public the incompatibility of clientelism, patron-client relations with effective modern public administration, mobilization of citizens to counteract its manifestations in society, public administration and business.

Conclusions

Thus, we conclude that clientelism is a social phenomenon that exists at all levels of government (central, regional, and municipal) in the current conditions of socio-economic situation in Ukraine.

Its destructive character is manifested in the fact that:

firstly, it exacerbates the struggle of oligarchic clans for access to state resources, allows concentrating enormous economic resources used to influence the formation of state policy in the hands of a narrow circle of persons;

secondly, it hinders democratic reforms in the country, as it impedes the free development and functioning of civil society, focusing on distribution, rather than on the production of public wealth;

thirdly, representatives of state power reproduce family-clan ties in the economic and political relations, making power institutions a source of their own income. This situation promotes the creation of parallel shadow structures, the spread of corruption and its manifestations such as protectionism, nepotism, paternalism, kroonism (‘kumivstvo’), etc.

Therefore, the political will is the main precondition of success in countering clientelism, patron-client relations in the state. It is possible to confront the manifestations of clientelism at the local level (at the level of united territorial communities) when the local community is interested in preserving its autonomy both from clan attacks and institutions of regional political power.

Prospects for further research are in the analysis of the role of clientelism, patron-client relations in structuring the modern political and economic process.

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Streszczenie

W tekście autorzy analizują relację patron-klient (klientelizm) na Ukrainie w toku reformy decentralizacji władzy oraz przekształceń samorządu terytorialnego.

Klientelizm definiuje się jako system relacji polegających na tym, że organy władzy zaczynają służyć interesom „grup klientów" (charakteryzującym się ekskluzywnością oraz hierarchicznością struktury, nieformalną naturą interakcji w procesie walki o prawo kontroli nad zasobami), w ramach którego to systemu wspomniane organy stają się patronami, a ludność zależnymi od nich stronnikami (klientami). W systemie klientelizmu państwo faktycznie staje się instrumentem prywatnych interesów osób pełniących funkcje publiczne i związanych z nimi biznesmenów.

Według autorów, klientelizm jest zjawiskiem społecznym, które we współczesnych warunkach socjalno-ekonomicznych istnieje na Ukrainie na wszystkich poziomach władzy: na poziomie centralnym, regionalnymi i municypalnym.

Na poziomie regionalnym przekazanie przez organy władzy wykonawczej znaczącej części kompetencji i zasobów organom samorządu terytorialnego stanowi jedną ze składowych procesu decentralizacji. Wzmaga to zainteresowanie grup klanowych zjednoczonymi gminami terytorialnymi. W tych warunkach walka polityczna na poziomie lokalnym przyjmuje charakter klanowy (klanowo-klientelistyczny) i ma na celu ustanowienie kontroli określonych grup (oligarchów, miejscowej elity biznesowej, polityków, partii) nad zasobami lokalnymi.

Destrukcyjny charakter klientelizmu przejawia się w tym, że zaostrza on walkę klanów oligarchicznych w zakresie dostępu do zasobów państwa i pozwala skoncentrować w rękach wąskiego kręgu osób kolosalne zasoby ekonomiczne; hamuje demokratyczne reformy w państwie; sprzyja tworzeniu paralelnych struktur szarej strefy, rozprzestrzenieniu korupcji i takich jej przejawów jak protekcjonizm, nepotyzm, paternalizm, kumoterstwo itd.

W tekście zaproponowano drogi przeciwdziałania klientelizmowi na mikro i makropoziomie. Według autorów, warunkiem sukcesu w procesie zwalczania klientelizmu pozostaje wola polityczna. Miejscowo (na poziomie zjednoczonych gmin terytorialnych) przejawom klienetlizmu można przeciwstawiać się tylko wtedy, gdy lokalna społeczność pozostaje realnie zainteresowana w zachowaniu

swojej autonomii, zarówno względem nacisków klanowych, jak i względem instytucji regionalnej władzy politycznej.

Słowa kluczowe: *klientelizm, patron, klientelistyczne stosunki polityczne, decentralizacja, reforma samorządu terytorialnego, gmina terytorialna*

Резюме

В статье анализируются патрон-клиентские отношения (клиентелизм) в Украине в условиях децентрализации власти и реформирования местного самоуправления.

Клиентелизм определяется как система взаимоотношений, при которых органы власти начинают служить интересам «клиентельних групп» (характеризуются замкнутостью и иерархичностью структуры, неформальным характером взаимодействия в борьбе за право контролировать ресурсы), в которых те являются патронами, а население (клиентами) - зависимыми от него сторонниками. В системе клиентелизма государство фактически является инструментом реализации частных интересов должностных лиц и связанных с ними бизнесменов.

По мнению авторов, клиентелизм - общественное явление, которое в Украине в современных условиях социально-экономического положения существует на всех уровнях власти: на центральном, региональном, муниципальном.

На региональном уровне передача от органов исполнительной власти органам местного самоуправления значительной части полномочий и ресурсов является одной из составляющих процесса децентрализации. Это усиливает интерес клановых групп в объединенных территориальных общинах. В этих условиях политическая борьба на локальном уровне принимает клановый (кланово-клиентский) характер и имеет целью установление контроля отдельных групп (олигархов, местной бизнес-элиты, политиков, партий) над местными ресурсами.

Деструктивный характер клиентелизма проявляется в том, что он обостряет борьбу олигархических кланов за доступ к ресурсам государства, позволяет сконцентрировать в руках узкого круга лиц колоссальные экономические ресурсы; тормозит демократические реформы в стране; способствует созданию параллельных теневых структур, распространению коррупции и таких ее проявлений, как протекционизм, непотизм, патернализм, кронизм и т.д.

Предложены пути противодействия клиентелизма на микро- и макроуровне. Предпосылкой успеха в противодействии клиентелизму, по мнению авторов, является политическая воля. На местах (на уровне

объединенных территориальных общин) противостоять проявлениям клиентелизма возможно лишь тогда, когда местное сообщество реальное заинтересовано в сохранении своей автономии, как от клановых посягательств, так и от институтов региональной политической власти.

Ключевые слова: *клиентелизм, патрон клиентские политические отношения, децентрализация, реформирование местного самоуправления, территориальная община.*

Анотація

В статті аналізуються патрон-клієнтські відносини (клієнтелізм) в Україні в умовах децентралізації влади й реформування місцевого самоврядування.

Клієнтелізм визначається як система взаємовідносин, при яких владні органи починають служити інтересам «клієнтельних груп» (характеризуються замкнутістю і ієрархічністю структури, неформальним характером взаємодії в боротьбі за право контролювати ресурси), в яких ті є патронами, а населення (клієнтами) – залежними від нього прихильниками. В системі клієнтелізму держава фактично є інструментом реалізації приватних інтересів посадових осіб і пов'язаних з ними бізнесменів.

На думку авторів, клієнтелізм – суспільне явище, яке в Україні в сучасних умовах соціальне-економічного становища існує на всіх рівнях влади: на центральному, регіональному, муніципальному.

На регіональному рівні передача від органів виконавчої влади органам місцевого самоврядування значної частини повноважень та ресурсів є одним із складових процесу децентралізації. Це посилює інтерес кланових груп до об'єднаних територіальних громад. У цих умовах політична боротьба на локальному рівні приймає клановий (кланово-клієнтський) характер і має на меті встановлення контролю окремих груп (олігархів, місцевої бізнес-еліти, політиків, партій) над місцевими ресурсами.

Деструктивний характер клієнтелізму виявляється в тому, що він загострює боротьбу олігархічних кланів за доступ до ресурсів держави, дозволяє сконцентрувати в руках вузького кола осіб колосальні економічні ресурси; гальмує демократичні реформи в країні; сприяє створенню паралельних тіньових структур, поширенню корупції й таких її проявів, як протекціонізм, непотизм, патерналізм, кронізм тощо.

Запропоновані шляхи протидії клієнтелізму на мікро- і макрорівнях. Передумовою успіху протидії клієнтелізму, на думку авторів, є політична

воля. На місцях (на рівні об'єднаних територіальних громад) протистояти проявам клієнтелізму можливо лише тоді, коли місцеве співтовариство реальне зацікавлено в збереженні своєї автономії, як від кланових посягань, так і від інститутів регіональної політичної влади.

Ключові слова: *клієнтелізм, патрон-клієнтські політичні відносини, децентралізація, реформування місцевого самоврядування, територіальна громада.*

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THE QUALITY OF E-COMMUNICATION BETWEEN MUNICIPALITIES, THEIR AUTHORITIES, AND CITIZENS: AN ANALYSIS OF THE WIELKOPOLSKA PROVENCE, POLAND[1]

Summary

The subject of this work is to present the results of the study conducted by Dr. Mikolaj Tomaszyk, and the research team members, V year political science students from the Faculty of Political Science and Journalism of Adam Mickiewicz University.

The activities of the seminar group were carried out on the basis of the Scholarship of Teaching and Learning (SoTL) method, disseminated by the Northeastern University Centre for Advancing Teaching and Learning through Research. The aim of the class is to encourage students to gain new knowledge and practical skills through joint work with their lecturer on a topic chosen by the students or a cooperating university. The group signed a contract, dividing the work and regulating matters associated with copyrights. Objectives of the research process were the preparation of research applications and publication in a manner adequate to the scale of the research.

Key words: *communication, open society, civil society, citizens' interests.*

Electronic service (E-service) provision is currently being developed by public institutions. The purpose of implementing such innovative solutions is to decrease the distance between the citizens and the governmental administrative offices, to facilitate contact with administrations regarding current issues, to increase the citizens' interest in municipalities' matters, to increase transparency of proceedings at the local level, and to enable societal supervision of public institutions' operations. The above objectives do not exhaust the multitudinous

[1] The original version of the text is part of the Polish-language publication: Tomaszyk, 2018.

benefits that stem from the development of information and communications technology (ICT). Administrative services provided for citizens are classified in categories of general services carried out via the Internet. E-services are divided into three sub-groups: public services, services associated with leisure, and financial services. The Internet, from the moment of its inception, changed the face of politics and the way that politicians interact with their constituents. The Internet has become a tool ubiquitously used by political parties and their candidates. Politicians use social media platforms, as well as their own websites, to advertise their political platform to their constituents and to inform residents about important matters.

The subject of this work is to present the results of the study conducted by Dr. Mikolaj Tomaszyk, and the research team members, V year Political Science students from the Faculty of Political Science and Journalism of Adam Mickiewicz University.

The activities of the seminar group were carried out on the basis of the Scholarship of Teaching and Learning (SoTL) method, disseminated by the Northeastern University Center for Advancing Teaching and Learning through Research. The aim of the class is to encourage students to gain new knowledge and practical skills through joint work with their lecturer on a topic chosen by the students or by an organization cooperating with the university. The group signed a contract, dividing the work and regulating matters associated with copyrights. Important objectives of the research process were the distillation of conclusions from the collected data and publication and dissemination in a manner adequate to the scale of the research.

The research follows 226 municipalities from the Wielkopolska Province from 28 November to 22 December 2017. The research problem was defined as the following: do municipal authorities who declare an openness to dialogue with citizens via the Internet treat this form of communication with the due professionalism and reply to the inquiries? The authors of this paper raised the following research questions:

1. What is the quality of online communication between municipal offices, their authorities, and their constituents?

2. Is a quality of these relations higher in municipalities that declare an openness to communicate with their citizens?

3. Do municipal authorities offering a special “Ask a question” section on their contact form reply on a regular basis, and substantively answer the questions asked?

4. Do the local self-government administration offices provide information via the Internet?

5. Are all replies to inquiries sent through the Internet factual, substantive, and written in accessible and coherent language?

6. On the basis of what criteria should the received answers can be evaluated?

On the basis of these questions, the thesis was formulated that the quality of electronic communication (e-communication) between municipalities, their authorities, and the denizens of the Wielkopolska region is poor, however, municipalities that include an "Ask a question" section on their website report better quality e-communication.

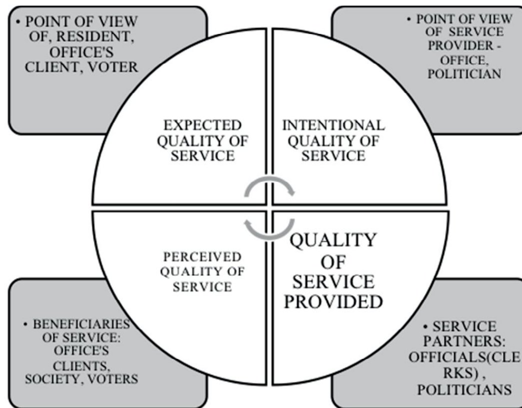
This research report covers issues associated with the concept of quality services provided in public administration. It should be emphasized that the methodology of the conducted research was fully developed and implemented by the authors of this report.

One of the crucial elements developed at the beginning of work was the determination and description of the criteria, which, according to authors, responses received from authorities should meet. It was essential to establish conclusions and create a ranking of the best municipalities in terms of the relationships and communication between governmental administrative offices and the civilians.

***** How to Define Quality in Public Administration? *****

The provision of administrative services offered by public administration bodies and local self-governments is inseparably linked to the quality expected from citizens. Quality is not only a measure of administrative activities but is also a component that co-creates the image of the administrative agents of the local self-government. Thus, in practice, at least two interpretations of the concept of quality might be indicated. The first interpretation, sensu stricto, is associated with the certainty of the local laws established by municipal councils and applied by the officials. Namely, the clarity and legibility of administrative procedures implemented with equal conscientiousness to each party of the administrative proceedings. Quality, here, can be identified as a professional approach to serving citizens in any matter within the body's competences.

On the other hand, quality is an element of political image, especially for locally elected officials. Therefore, in many cases, actions purported to establish an image of approachability of municipal administration to the citizens, such as creating the ability to ask questions electronically, organizing open meetings with citizens, creating a culture of geniality and service efficiency, frequent and consistent updates of day-to-day operations are the qualitative demands of citizens can be verified after interacting with the local offices or politicians. Quality of service can be assessed based on two standards – the expected level and the accepted level.



Source: own elaboration

Fig. 1 Understanding Quality as a Relationship between Offices and Citizen
Source: own elaboration

There is a certain range of tolerance that separates the desired quality, from a sufficient, satisfactory quality. The desired quality tends to be more uniform than the baseline measure of sufficiency, which tends to be more fluid. There is a positive relationship between clients' desires, needs, and their evaluation of the desired quality. The longer the services take to be realized, the higher the desired level of quality will be. This means that the longer the wait, the higher the expectations there are regarding the level of quality of services we receive. There is an inversely proportional relationship between the desire for increased quality and the range of tolerance: as the desired level of sufficiency increases, the range of tolerance shrinks. The number of services offered also has an impact on the quality of service. Some situational factors may decrease the baseline tolerable sufficient quality. The level of involvement affects the assessment of the level of quality. Quality assessment is the difference between expected quality and perceived quality. The higher the level of perceived quality, the higher the level of satisfaction, and the lower toleration of error or delay. There is a positive relationship between a client's experiences and the level of desirable and perceived quality (Wasilewski, 1998, p. 8).

When analyzing quality from the perspective of the politicians' image and credibility, it should be noted that his/her decision regarding online activity, enabling access to himself/herself via online tools requires consistency and maintenance of relationships with potential voters. Politicians who use Internet

tools only during the election periods and abandon this activity afterward, lose credibility. Similarly, if the heads of the municipal governments offer a special form creating the possibility to ask questions online, they must provide answers in accordance with the established guidelines. If this tool is to be successful in increasing local communities' interest in political matters and reducing the distance between the political sector and society, it has to be seen as a credible means of raising political participation.

*****Research Methodology *****

This study was conducted using the Mystery Client method. This method consists of conducting secret observations of correspondence. The research team reached out to the Municipal Councils in the Wielkopolska Province of Poland, via the "Ask a question" tab, contact forms, or the contact addresses indicated on the website as a Mystery Client. The aim of the study to assess the quality of electronic correspondence, so the researchers did not reveal their true role to the municipal authorities.[1] The Mystery Client, also referred to as the Examiner, completed a special questionnaire after concluding his/her visit to the designated office, and recorded observations and commentary. A Mystery E-Client profile was created to substantiate the research conducted by authors. The avatar of a woman was used in order to gain the trust and empathy of the surveyed institutions, or more accurately, the representatives of the institutions. The narrative created about the Mystery E-Client was purported to facilitate relatability and sympathy for the avatar's plight.

During the creation of the avatar's profile, focus was placed on giving her realistic characteristics and putting her in situations which would help the authors expand the range and subject areas of questions they could ask. It was important that the questions would cover several content areas, therefore issues such as childcare for children with disabilities, and attending schools and nursery schools were presented.[2] To increase credibility, a Facebook account was created for the

[1] The precursor for this research has been conducted for years, by the research team from SGH Warsaw School of Economics, ranking "Municipality on 5+" (more at: *Gmina na piątkę*...).

[2] My name is Anna Markiewicz and I am 32 years old. I am the wife of Krzysztof Markiewicz who is 34 years old and an international trucker by profession. I am the mother of a 6-year-old boy Maciej, and 2 years old girl, Ola, who at 6 months old was diagnosed with diplegia (bilateral paralysis) caused by cerebral palsy. It is a condition characterized by progressive paraparesis. A very early diagnosis of our daughter's disease gave us hope that with rehabilitation, we could prevent the development of the disease. Thus, treatment at the rehabilitation center and at home is necessary, at least three times per day for about half an hour each, which is also associated with additional costs. We obtained disability certificate that helped us get a rehabilitation stipend of 90 zlotych per month. As I am a "full-time mother," I am not able to work, that is why our family income besides above allowance, is based on my husband's salary, nursing benefits with the amount of 1406 zloty per month and nursing allowance for the child of 153 zlotych per month. The frequent absence of my husband at home due to his work

avatar. The authors assumed that such method of verification of the information about the inquirers to municipal councils in smaller communities might be common.

The questions asked concerned various areas ranging from economic to social, education, and cultural. The authors of the report tried to cover every issue that could be of interest to new, or potential residents, parents of disabled children, or citizens looking for ideas on how to spend their free time. This method allowed for thematic specification of subject content that municipalities may cover in their answers, as well as the demonstration of whether or not the answers given by the authorities focus on a particular aspect of the questions asked or omit topics entirely.

***** Selection of Research Sample*****

The authors of the report assumed that the local politicians and municipal authorities who declare an openness to e-communication with citizens care about the high quality of these interactions because it contributes to building their image and credibility. In addition, it was assumed that municipal offices not only perform administrative functions but are also the first point of contact for new residents, as well as for those who have no need to frequently engage in local politics. These people typically have some idea about their municipalities, their authorities, and offices. Contact with such offices and officials could confirm negative stereotypes and reinforce negative images of the local politicians which, in turn, could discourage all forms of civic engagement. It was acknowledged

commitments involving two weeks on the route to foreign countries is causing a lack of sufficient help from him in our household. For these reasons as well as his new job offer, this time in a different municipality, we are leaning towards moving out. Currently, we are living in Mogilno and in the near future we are planning to move to …. Every major change raises many doubts and uncertainties. We are wondering about the quality of life in our new city and what kind of support from the municipality on our disabled child as well as the educational path which our son will soon begin.
That is why we are interested in the following issues:
1) Does the municipality grant financial benefits for disabled children?
2) Does the municipality provide transport to school for disabled children or are the costs of transport to educational establishments refunded?
3) What conditions have to be met in order to be granted social and family benefits from your municipality?
4) Do schools operating on municipality's territory provide transport for children to school?
5) Are there any extracurricular activities organized for children?
6)Is there a cultural center or any other place where children can spend their free time in an organized manner within the municipality?
7) Do schools and kindergartens offer support for disabled children?
8) I would like to establish a business – Bank of Time – where I could take care additionally of up to 5 children in our house. Bank of Time would integrate disabled children with able-bodied children from a very young age. Is there a need in the territory of your municipality to create an additional childcare place for children up to 3 years old? If yes, is the municipality able to financially support such business operations?

that municipalities, as local self-governing units (constituting the third, the lowest, level of administrative division) which are the closest to local communities should be open to communication with citizens and potential citizens. The initial assumptions also include the notion that the quality of electronic correspondence between the municipal authorities and residents of Wielkopolska occurs at a qualitatively low level. In addition, in municipalities that have websites which include the "Ask a question" section, the quality of interactions between the authorities and the citizens will occur at a high level.

When dividing municipalities into groups based on various categories, the following criteria can be considered: the type, size, and economic standing. In regard to the type parameter, three types of municipalities in Poland can be differentiated:

1) Urban municipalities (302)
2) Rural municipalities (1555)
3) Suburban municipalities (621).

Conducting this study on the country-wide basis was impossible due to the high number of local self-government units. According to data from 1 January 2018, in Poland there are 2,478 municipalities (*Lista gmin w Polsce*). Therefore, the only criterion considered when selecting the municipalities to study was geographic. The area of study covered the Wielkopolska Province, which currently has 226 municipalities. The municipalities, broken down by county, was prepared in a table with contact details.

Municipalities from the selected province were divided into three groups. The first group included municipalities with websites that offer a section that encourages people to ask questions to the head of the municipality (29 municipalities). The second group was composed of municipalities that had a contact form in addition to their contact details (35 municipalities). The last group was comprised of municipalities to which questions were sent via a general e-mail address posted on the website.

Fig 2. Means of Contact via the Internet

Source: own elaboration based on analysis of data set out on the official websites of municipalities' councils.

At the beginning of this study, there were several hypotheses regarding the expectations of the quality of answers for questions posed to the municipal authorities. It was assumed that a satisfying answer should meet the following criteria:

1) The responses should be received within 10 days of the submission of the question. This period of time was considered to be the most appropriate for two reasons. It gave municipalities a sufficient number of days to create a complete answer, and it was also a reasonable period for the inquirer (avatar Anna Markiewicz), since the wait time would not negatively affect the preparations for her move.

2) The response should be personalized and polite terms of respect should be used, such as: "Dear Madam," "Dear Mrs. Markiewicz," as well as "Yours faithfully/sincerely," "Best regards."

3) The response should be signed with the first name, surname, held position, and all contact information of the administrator, in order to enable further communication, not only through the use of e-mail but also by phone (direct contact with the person who responded to the query) and traditional mail.

4) The response should be complete, with all questions addressed:

a. Regarding social services – not only information about what benefits are available for the inquirer based on legal provisions, but also what must be done in order to continue to receive them (so the inquirer and her family already receive benefits), and whether the municipality provides an additional related services. What paperwork must be completed as part of the moving process in order to ensure a continuity of benefit payments received?

b. "Bank of Time" – information regarding the needs for certain businesses and if such activity is co-financed by municipality's budget. Additionally, as the small and medium-sized enterprise (SME) sector in Poland requires further development, especially in the field of women's entrepreneurship, in our opinion, the municipality should encourage the establishment of such business activity. It is in the interest of the municipality, which receives its contribution of Corporate Income Tax. It can be assumed that there are parents in the municipality who are willing to leave their children in daycare or at other childcare facilities. It was expected to receive guidelines and support for establishing a business.

c. Transportation to school – whether it is organized and on what terms (Anna Markiewicz does not need to know that it is a responsibility of municipality under certain circumstances).

d. Organized afterschool and weekend activities for children – information about existing cultural centers is insufficient because they might only organize time for specific age groups, for example, seniors. It was expected to receive specific examples of how children can spend their free-time, for instance: sports, art classes, or book clubs for children at the local library.

e. Preschool – an indication of any existing integrated preschools or integrated preschool departments as well as their hours of operation. If no such place exists, does the municipality organize alternative systems of childcare (transport to a different municipality, individual care, etc.)?

5) The answer should be given in simple and comprehensible language without unnecessary refers to legal provisions.

6) The content of the response from the municipal authority should include encouragement for further contact if further questions should arise.

7) The answer should be given via formal letter (possibly via scanning and sending answer in a letter format), or in PDF version (a DOCX version can be edited and thereby cause problems to municipality, for example, someone could change the content of the sent information and claim that they received this version of file), along with assigned case number which would be seen as a professional approach. Additionally, it was expected to receive the complete answer with all questions addressed in one file, signed by the case officer.

8) Demonstration of empathy – contrary to the popular belief that "governmental administrators are not human," there should be a demonstration of empathy in the response, an attempt to empathize with the mother of two children, including one with a disability, whose husband is often away from home due to work commitments, facing the perspective of moving to new place without knowing anyone.

9) Additional information regarding the municipality should be included, or information which seems to be essential from the perspective of the responding officer, such as tourist attractions, places to see, regional products, the municipality's celebrations, and local patrons etc.

10) The answer should be comprehensive and concise. The optimal amount of text which could contain all the relevant information yet be easily digested by the citizen should be, in the authors' opinion, at most two A4 pages long.

To confirm one of the established assumptions regarding the quality of e-communication between municipal offices and citizens, when the "Ask a question" section is offered on the website, another analysis was conducted. The percent share of the responses received was compared to responses not received in particular groups. The results are shown in the graph below and are presented in the following manner:

1) Group 1 – municipalities that have the "Ask a question" section on their website:

a. Responses given – 16 (55.17%)

b. No response– 13 (44.83%)

2) Group 2 – municipalities that include a contact form in their contact details:

a. Responses given – 16 (45.71%)

b. No response – 19 (54.29%)

3) Group 3 – municipalities where the questions were sent via email:

a. Response given – 96 (59.26%)

b. No response – 66 (40.74%)

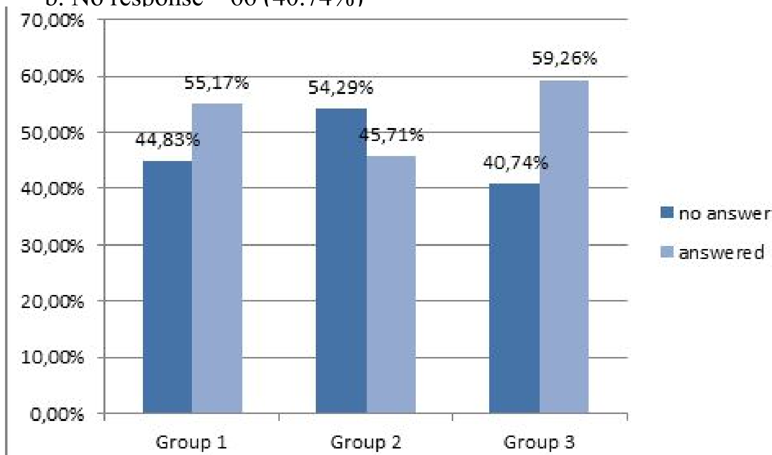


Fig 3. The percentage share of received responses in particular groups of municipalities

Source: own elaboration based on analysis of online websites and analysis of received answers

The discussion regarding the time criterion must be assessed based on two different aspects. First, concerning the initial response by the municipal offices. These were predominantly requests for clarification about in which town the avatar intended to live with her family. Within six days of submitting the question, response emails were received from 65 municipalities which constitutes 28.76%. In the subsequent time groups, the following number of municipalities were found:

1) Group 1 (0 - 6 days) – 65 municipalities (28.76%)
2) Group 2 (7 - 10 days) – 45 municipalities (19.91%)
3) Group 3 (11 - 14) – 11 municipalities (4.87%)

4) Group 4 (over 2 weeks) – 12 municipalities (5.31%)
5) Group 5 (no response) – 93 municipalities (41.15%)

The last group consisted of municipalities that did not respond at all: neither answered the question nor asked for supplemental information that would help them provide an answer. This group amounted to 41.15%, meaning that 93 municipalities decided not to give a response to questions sent through e-mail. This information is shown in Figure 3, below.

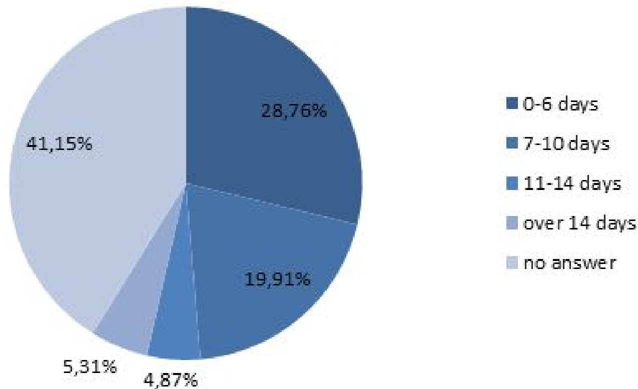


Fig 4. Time of Establishing Initial Contact by Municipality
Source: own elaboration based on analysis of received answers

The second aspect considered was the time it took to provide the final answer. In this case, the proportions appeared to be completely different. Of the 65 municipalities that made initial contact within 6 first days, only 44 gave a final answer (although not always fully complete), which constitutes 19.47% of all municipalities in Wielkopolska. In subsequent time periods, the following number of municipalities were found:

1) 0 -6 days – 44 municipalities (19.47%)
2) 7-10 days – 52 municipalities (23.01%)
3) 11-14 days – 13 municipalities (5.75%)
4) Over two weeks (until 22 December 2017) – 19 municipalities (8.41%)
5) No response – 98 municipalities (43.36%)

After 22 December, a few more answers were received via e-mail, however, they were disregarded because they exceeded the established deadlines. Answers were not received from 98 municipalities, which constitutes 43.36% of municipal councils in Wielkopolska.

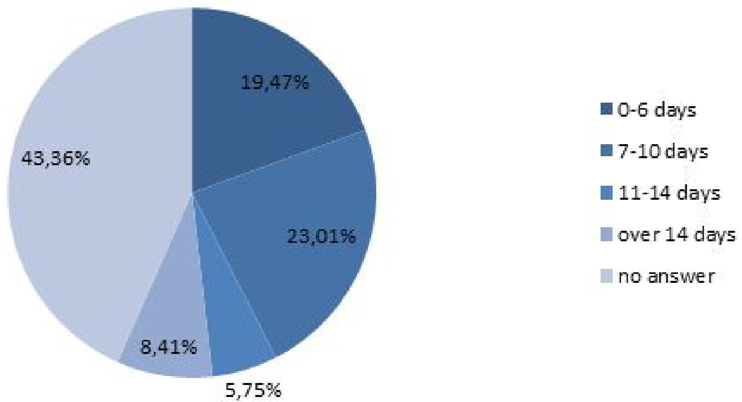


Fig 5. Time to Provide the Final Answer by Municipality
Source: Own elaboration based on analysis of received answers

As it was mentioned, the reply period, the length between the submission of the questions and receival of a reply is also influenced by the formal correspondence sequence, which every letter coming to the office should pass. It was expected that the letters sent by the offices should have a person in charge of it, an "officer" of correspondence, who would make sure that the letter is signed, and that a comprehensive answer is provided (perhaps from multiple departments responsible for the issues in question). It was considered also if the reply was submitted via a formal letter with the correspondence officer's stamp and signature, and if an answer was received by the research group (the most important expectation). Sometimes, it was observed that the messages were sent to multiple departments and the answers were received separately rather than collectively. It was expected to receive one collective answer which would be easier to read and process, rather than "jumping" between several e-mails to find answers from various departments.

***** Good and Bad Practices of Electronic Communication *****

EXAMPLE OF GOOD PRACTICE	EXAMPLE OF WRONG PRACTICE
Precise, comprehensive answers for each question asked	General answers, often vague, curt, no response at all
Answer provided in accessible language, understandable to the average citizen	Answer provided in an incomprehensible manner, with overuse of official language
Use of appropriate polite terms of respect, for example: "Dear Madame," "Yours faithfully"	Lack of polite terms of respect
Adjusting answers to the specific situation of the inquirer, personalized responses	Relying on the content of the bill, quoting articles without explanation, using fragments of legal acts
File sent in JPG/PDF format which does not allow any manipulation of the message content	File send in DOC/DOX/ODT format which is vulnerable to content alteration
Sending attachments with the content of email	Sending attachment without any written content in the email – it is easy to omit such an answer
Official letter: a stamp of the mayor/municipal head, a signature, including the municipal crest	Informal method of providing the answer
Demonstration of empathy	Lack of understanding of citizen's situation
Collective answer from one source	Answers from many departments or institutions from which the citizen did not initially correspond
Presentation of municipality's attractions and values, encouragement to move in	No presentation of the municipality's attractions and values and no encouragement of the potential resident to move there
Asking for supplemental details about unclear issues in order to provide the most comprehesive response possible	Ignoring unclear issues, or asking for supplemental information and then not taking it into account in the final answer
Providing answer without unnecessary delay, as fast as it is possible	A long waiting time for a reply

***** Analysis of Contact Forms*****

In Wielkopolska, there are 226 municipalities (as of 28 November 2017). 29 of them, 12.83%, include a section encouraging citizens to contact the local authorities on their websites. The contact information is generally for the municipal head, mayor, or the president of the city.

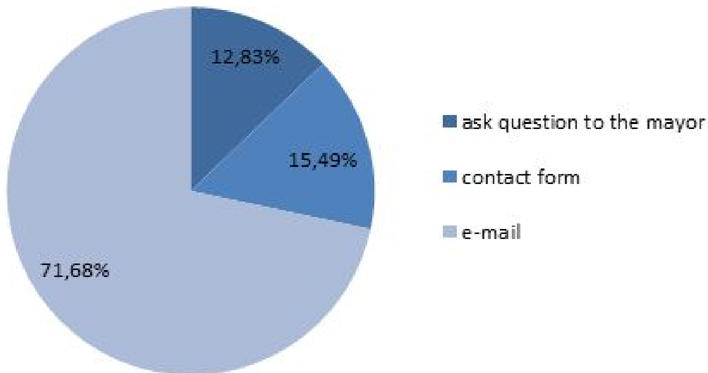


Fig 2. Means of Contact via the Internet

Source: own elaborations based on data analysis of the official websites of municipal councils

Through these means of communication, a question was sent to municipalities. During the information and contact detail data collection, the following conclusions were drawn regarding contact forms and the potential obstacles encountered by the inquirer when sending questions:

1) Twelve municipalities use the same type of contact form, which requires the provision of an e-mail address, and the inquirer's name and surname in addition to the text of the question. In nine cases, there was an automatic generation of the IP address from which the message was sent.

2) In thirteen cases, an IP address was automatically attached to messages and the inquirer could not prevent this attachment.

3) Ten municipalities have regulations for using the "Ask a question" function. All of them are based on the same principles:

a. All users of the public Internet are able to ask questions;

b. To make a query, all the required fields must be completed;

c. Questions that have previously been answered will not be published (which, in the case of this study creates a difficult situation for the avatar, Anna

Markiewicz, who has a disabled child and does not have the time to go through all the previously published answers to find the pertinent information on the website. If one of her questions was already asked, she will not receive a reply to her question); insulting and harassing questions, and questions unrelated to official matters will also not be published.

4) In the majority of cases, a photograph of the municipal head is presented with the contact information. This is supposed to encourage citizens to submit questions, and to demonstrate that the administration is open to receiving questions.

5) It was found that in three instances, there was a character limit when submitting a question: one thousand or two thousand. In one case, the question was to be submitted in the form of a comment under the regulations.

6) 19 municipalities (the vast majority of municipalities which provide a contact form) publish previously posed questions and answers on the official website. It was found that three municipalities provided the answers as a comment on the website and did not send an email, and one municipality replied both with an email and as a comment on the frequently asked question page.

It is worth mentioning that, in one case the content of a received answer said: "I am informing you, that due to the high quantity of 'sensitive data' we will not publish your question on page www.kazimierz.pl for public viewing, so we are responding directly to you."

7) Ten municipalities provided information regarding the time period in which a response was to be given.

8) In six cases, providing additional contact information, such as a residential address or a phone number, was compulsory.

9) The following aspects were of great importance: visibility and the ability to quickly find a tab on the website. These matters were resolved in various ways by individual municipalities.

10) In one case, despite there being a designated "Ask a question" section, it was impossible to submit a question because the corresponding tab did not work.

11) When submitting a question to one of the municipalities, it was possible to add an attachment of the text of the message.

12) One municipality required the inquirer to register an account on the website, which must also be approved by the website administrator. This is a major impediment especially if someone cares about getting a quick response.

The second group consists of municipalities that do not include an "Ask a question" section, however, in their "contact details" section, they provide a contact form. There are 35 such municipalities which constitutes 15.49% of the total.

1) In the vast majority, these contact forms are the same: a name, surname, or nickname and email address should be provided in addition to the message content. Several municipalities also require providing a home address and phone number.

2) In one case, there was a link to a contact form, but it did not work.

3) In one case, there was a maximum message length of 500 characters.

4) In three municipalities, additional files can be attached to the text of the message. This can facilitate communication enabling people to submit more important information, if needed.

5) In one municipality, it was required to provide a PESEL number. Providing a phone number or residential address might be necessary for further communication between the inquirer and the municipal authorities and such data is generally available. However, the provision of a PESEL number does not facilitate further communication and therefore providing it can be considered invasive.

The last group includes municipalities that do not have any type of contact form. They constitute the vast majority, 71.68% (162 out of 226 municipalities). A message was also sent to these municipalities using the e-mail address provided on their official websites.

Conclusion

The purpose of this research, as cited in the introduction of this report, was to assess the quality of communication between municipal councils and their citizens. It is worth restating the research questions raised at the beginning of this report and summarizing the results of the research.

The first research question is as follows: how is the quality of online interactions between municipal councils, their administrators, and citizens? After analyzing the collected data, the quality of interactions was deemed to be unsatisfactory. None of the three groups of municipalities that were contacted (via an "Ask a question" section, via a contact form, and via e-mail) exhibited a percentage of successful email responses greater than 60%. Despite the unsatisfactory results, there exists a vast potential in the Wielkopolska municipalities. It is pleasing that the majority of municipalities provided answers to the questions at all. Some of the responses were very satisfactory while others were less so. Many responses were incomplete in a number of ways and required further development. The responses were both surprisingly positive and negative – especially in the prevalence of no response sent at all.

In reference to the second and third research questions it was assumed that the municipalities that provided an "Ask a question" section on their websites would have a high quality of communication with the inquirer because the municipal

authorities had declared an openness to and an efficiency in interacting with the citizens. This hypothesis proved to be false. In each of the three groups the ratio of responses obtained was at a similar level: group 1- 55.17%, group 2 – 45.71%, group 3- 59.26%. Municipalities considered during the analysis of the second hypothesis (group 1), obtained a result of 55.17% of received answers, which is not the best result in comparison to other groups. Also, when considering 'no reply given,' group 1 only had the second highest percent of responses.

When analyzing the results of the conducted study, it can be concluded that each of municipalities that provided a response did so via the Internet. It is significant because the request for information was sent electronically and it was expected that that reply would also come in the same form. There were two municipal offices that were exceptions: one required a residential address (so it was unclear how they intended to reply), and the second suggested that they send some brochures advertising the municipality by post.

This report also mentions the importance of consistency in regard to the provision of answers. The replies were varied in terms of content and complexity. Some of the municipal offices met expectations almost 100% of the time, while some municipalities were found to be more inconsistent. The responses of each municipality were analyzed and evaluated according to the accepted standards and criteria. These included: the time it took to receive the answer, the form, accessibility, and complexity of its language. Additional points were given to answers which were empathetic or were provided in the form of an official letter.

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Streszczenie

Przedmiotem opracowania jest przedstawienie wyników badań prowadzonych przez zespół badawczy, którego prace koordynował dr Mikołaj Tomaszyk, a jego członkami byli studenci V roku na kierunku politologia prowadzonym przez Wydział Nauk Politycznych i Dziennikarstwa.

Praca dydaktyczna z grupą ćwiczeniową została przeprowadzona w oparciu o metodę SoTL (Scholarship of Teaching and Learning) upowszechnianą przez Northeastern University Center for Advancing Teaching and Learning through Research. Celem tak prowadzonych zajęć jest zachęcenie studentów do poznawania nowej wiedzy i ćwiczenia umiejętności w oparciu o wspólne z wykładowcą prowadzenie badań na wybrany przez grupę lub zgłoszony przez współpracujące z uczelnią środowisko temat pracy. Grupa zawarła kontrakt, na podstawie którego podzielono pracę zespołu oraz uregulowano sprawy związane z prawami autorskimi. Ważnym celem procesu badawczego jest przygotowanie wniosków z badań oraz ich upublicznienie w sposób adekwatny do skali badań.

Słowa kluczowe*: komunikacja, społeczeństwo otwarte, społeczeństwo obywatelskie, interesy obywateli.*

Резюме

Предметом данной работы является представление результатов исследования, проведенного доктором Миколаем Томашиком и членами исследовательской группы – студентами политологии 5 курса факультета политологии и журналистики Университета Адама Мицкевича.

Учебная работа с группой студентов проводилась на основе метода SoTL (Стипендия преподавания и обучения), распространяемого Северо-Восточным университетским центром по развитию преподавания и обучения с помощью исследований. Целью класса является поощрение студентов к приобретению новых знаний и практических навыков путем совместной работы со своим преподавателем по теме, выбранной студентами или сотрудничающим университетом. Группа подписала контракт, в соответствии с которым работа команды была распределена, а вопросы, связанные с авторским правом, регулировались. Важной целью исследовательского процесса стала подготовка выводов работы и их публикация в соответствии с масштабами исследований.

Ключевые слова: *общение, открытое общество, гражданское общество, интересы граждан.*

Анотація

Предметом даної роботи є представлення результатів дослідження, проведеного доктором Миколаєм Томашиком і членами дослідницької групи - студентами політології 5 курсу факультету політології та журналістики Університету Адама Міцкевича.

Навчальна робота з групою студентів проводилася на основі методу SoTL (Стипендія викладання і навчання), розповсюджуваного Північно-Східним університетським центром з розвитку викладання і навчання за допомогою досліджень. Метою класу є заохочення студентів до набуття нових знань і практичних навичок шляхом спільної роботи зі своїм викладачем по темі, обраної студентами або задіяним університетом. Група підписала контракт, відповідно до якого робота команди була розподілена, а питання, пов›язані з авторським правом, регулювалися. Важливою метою дослідницького процесу стала підготовка висновків роботи та їх публікація відповідно до масштабів досліджень.

Ключові слова: *спілкування, відкрите суспільство, громадянське суспільство, інтереси громадян.*

BIOGRAPHICAL NOTE

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