

FORMATION OF REGIONAL ADMINISTRATION SYSTEM IN UKRAINE TAKING INTO ACCOUNT THE EUROPEAN EXPERIENCE

ФОРМИРОВАНИЕ СИСТЕМЫ РЕГИОНАЛЬНОГО УПРАВЛЕНИЯ В УКРАИНЕ С УЧЕТОМ ЕВРОПЕЙСКОГО ОПЫТА

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SUMMARY

The article analyses the regional administration formation and evolution in Ukraine after the independence reestablishment in 1991. In particular, the main problems of present administrative-territorial organization are revealed, the directions for further local self-government transformation according to European standards are outlined and the prospects for decentralization reform launched in 2014 are evaluated.

Keywords: regional administration, local self-government, territorial communities, decentralization.

АННОТАЦИЯ

В статье анализируются формирование и развитие регионального управления в Украине после восстановления независимости в 1991 году. В частности, выявлены основные проблемы существующего административно-территориального устройства, определены направления дальнейшей трансформации местного самоуправления в соответствии с европейскими стандартами и оценены перспективы реформы децентрализации, начатой в 2014 году.

Ключевые слова: региональное управление, местное самоуправление, территориальные общины, децентрализация.

Taking into account the European aspirations of Ukraine, the reformation of public administration including the regional one, as well as effective local self-government formation and new territorial organization of the state should be carried out subject to best experience of EU countries. However, the Ukrainian reform attempts

utterly contrasted with the processes happening in other Eastern Europe countries. Having proclaimed the same plans and intentions as Poland, Hungary, Romania, Latvia and other ex-socialist states, we have quickly branched off in the reforms' pace. That has become especially obvious while considering the decentralization of power

in Europe and the preservation of centralism in Ukraine.

In particular, the administrative-territorial reform in line with new economic realities and ethno-cultural peculiarities was one of the major problems faced by Ukraine after the independence renewal. The rather simple and centralized territorial system model inherited from the Ukrainian Soviet Socialist Republic was guaranteed at the constitutional level, while repeated attempts to introduce decentralization processes met with opposition and failed [14, p.190].

The regions that previously ensured the functioning of a strictly centralized administrative system in the state should have become relatively independent separate socio-economic systems. However, different initial conditions for such a transformation did not contribute to the development of administrative-territorial units. The administrative-territorial system of Ukraine and its legislative provision excluded self-development ability for most of territorial units [7].

B. Danylyshyn among the main problems of administrative-territorial system mentions the following:

- unregulated legal status of administrative-territorial units;
- location of other cities, villages and settlements as separate administrative-territorial units within the city boundaries;
- absence in many cases of administrative-territorial units boundaries determined by the relevant authorized bodies;
- excessive fragmentation of the basic level administrative-territorial units [3].

In our opinion, some other factors should also be mentioned. They are:

- significant difference in the number of population, area and other parameters between the administrative-territorial units of the same level;
- inconsistency of many administrative

and territorial units status with their human resources, material and technical potential;

- inconsistency with the European Union recommendations to the administrative units.

No government has been able to implement administrative-territorial reform during the Independence period. The most well known model of administrative-territorial reform was the one, developed in 2005 by Roman Bezsmertniy, Vice Prime Minister of Ukraine. This model was based on the idea of maximizing the delegation of powers to local self-government bodies. It was suggested to establish a three-level administrative-territorial system: regions (city-regions) - districts (city-districts) - communities. The community was determined as the basic unit from which the reform should begin. A quantitative population size criterion was proposed for the formation of communities: not less than 5,000 inhabitants (and in the areas with low population density – at least 3,500 inhabitants) [16].

The reform met resistance at the local and regional levels. The actions against it were particularly active in the western regions (Chernovtsy, Lvov, Ivano-Frankivsk and Ternopol) since their territorial structure is the most fragmented. It should not be forgotten that administrative-territorial units' consolidation implies disappearance of hospital and other subdivisions of the administrative-territorial authorities. The government did not demonstrate how the urgent problems of the population being in the competence of liquidated institutions would be solved. Consequently, largely due to the lack of attention to information component the reform failed.

An important aspect for providing effective regional administration is local self-government development. The USSR had a centralized system of territorial or-

ganization of power with direct state administration at all subnational territorial levels. Formally, it was carried out through a unified system of state authorities - the People's Deputies Councils, and in fact - through a centralized vertically subordinate system of party organs [11].

Thus, local councils in the Ukrainian Socialist and Soviet Republic were subordinated to the higher-level councils and their executive committees. In accordance with the Constitution of the Ukrainian SSR of 1978, "the local councils of the People's Deputies implement the decisions of the higher state organs and direct the activities of the lower-level councils" [8]. Consequently, the councils exercised the functions of the state and not the local self-government authorities.

Today, in Ukraine the formation of public authorities is realized in accordance with the European Charter of Local Self-Government [6] provisions only at the community level. The Ukrainian legislation, providing rayon and oblast councils with the right to represent the territorial communities common interests, at the same time, deprives them of the possibility to have their own executive bodies. This contradicts international political-legal practice and the basic documents regulating the functioning of local self-government, first, the European Charter of Local Self-Government.

The reform of regional administration in Ukraine should take into account the pan-European tendencies of regionalization, which have led to radical changes in many EU countries. These changes are aimed at further democratization of administration, reforming the state executive power structure, decentralization and deconcentration of competences and responsibilities.

Long ago, the World has realized that administration can not be done exclusively from the centre. The famous French scientist A. de Tocqueville noted: "The central

authority, no matter how educated and skilful it is, can not cover all the issues of the people's life. When the government is trying exclusively on its own to create and operate an infinite number of different social mechanisms, it will have to either be content with incomplete results, or its efforts will simply be in vain" [4].

Finally, the Ukrainian authorities realized that without solving the problem of the relationship between the centre and the regions and creating balanced system of territorial organization it would be impossible to withstand new challenges, the most dangerous among which being the threat of separatism and centrifugal tendencies. 2014-2015 became the years of a violent start of the decentralization reform. Communities have already felt the benefits of financial decentralization, having received additional sources of revenues to local budgets.

The main directions of the transformations were defined by the Concept of Local Self-Government and Territorial Organization of Power Reform, approved by the Cabinet of Ministers of Ukraine Order on April 01, 2014. A three-level administrative-territorial system should be built in Ukraine after reforming. The basic level is the community (village-town-city), then - the district, and then - the region. Each of these levels will have an exclusive list of competencies and funding sources. State administrations will be transformed into prefectures, which will be given power to control legality of local self-government documents in the territory concerned. The prefects - career civil servants who will be the state "eye" in the territory are going to take the place of the regional state administrations heads [5].

The Institute of Prefects is borrowed from the French experience, and the proposed decentralization model has similarities with both French and Polish regional

administration models. Changing the role of regional state administrations, depriving them of the status of direct regional development management subject is in line with European practice, since it means the transfer of power from state-appointed officials to elected community representatives.

The proposed model deserves a positive assessment, as it involves a qualitatively new regional administration mechanism. At the same time, in our opinion, an important logical addition to the reform concept should be granting of the territorial community status to the region (oblast) and the district (rayon).

The ideas outlined in the Concept have found their further practical implementation in the Law "On Amendments to the Constitution of Ukraine (regarding the decentralization of power)", which was approved by the Verkhovna Rada in the first reading on August 31, 2015. In particular, the term "local state administrations" is no longer used in the document. The law provides that executive power in districts and regions is exercised by prefects, who are appointed and dismissed from the office by the President of Ukraine [13]. In addition, it is proposed to guarantee by the Constitution of Ukraine the administrative-territorial system of three-level: communities, districts and regions.

The number of the administrative-territorial system levels is periodically discussed in Ukraine. Some Ukrainian researchers speak for a two-level system. So, A. Matvienko proposes to form a two-level administrative-territorial system including: I) community-district - the basic level of territorial organization of the state (approximate amount - 900); II) region (oblast) - the second level [10].

Others argue that the existing three-level model of territorial division is the most optimal for Ukraine, but requires its

considerable reformation in the direction of better correlation between levels and taking into account socio-economic, socio-cultural and geographical factors [2].

In our opinion, Ukraine is too big country for introduction of two-level system. Even in the case of the communities' consolidation, they will not be able to fulfil all the powers that now belong to the districts, and therefore the three-level system is optimal. This is indirectly confirmed by the reforms carried out in the Republic of Poland. Within the framework of the Polish reforms the voivodships number was reduced from 49 to 16, as a result of which many competencies arose, which did not belong neither to the gminas nor to the voivodships. Therefore, there was a need to return to the three-level system and to create powiats.

It should be noted that territorial communities, regardless of their area and population, are not self-sufficient by 100%. In such circumstances, an inter-municipal cooperation (IMC) is an important and effective tool for a decentralized administrative system.

It can be carried out in a variety of areas, the main of which being garbage collection and utilization, water supply and wastewater, tourism, cultural objects and cultural events, construction and maintenance of roads, public transport, education, and public health [15]. In Ukraine, the creation of a regulatory framework for IMC development has begun. In June 2014, the Law on the Cooperation of Territorial Communities was adopted [12]. It resulted in more than 30 cooperation agreements concluded.

It should also be noted, that Regional Development Agencies (RDA) have become important partners for the authorities in many European countries. Ukraine has some experience in the RDAs activity, which began to be established in the 1990s. In

some cases, they were created by business entities, in others – by local authorities. Only a few of them were engaged in the development of programs for socio-economic territorial development. The vast majority provided consulting services to local enterprises. In 2001, throughout the state there were 17 RDAs, in 2002 – 27, in 2004 – 38, in 2005 – 39, today – about 100 organizations [1]. At the same time, in contrast to Europe, the Ukrainian RDAs functioned at the expense of foreign grants and did not have common principles of their activity.

European experience proves that the concentration of regional development competences in the field of RDAs activity has certain advantages over monopoly preservation of similar functions within the regional authorities' powers. This approach allows to avoid scattering of available local resources and to get rid of the regional development process politicization (in particular, putting an end to the manipulation of the "regional prosperity" ideas as an instrument for achieving electoral sympathies).

In Ukraine, in our opinion, RDAs could become an effective tool for helping foreign and domestic investors. Such assistance should be realized through overcoming bureaucratic obstacles, establishing contacts with local business structures, accompanying the issues of receiving premises, allocating land lots, providing translation, etc. For the performance of such a mediation role, agencies should receive a percentage of remuneration in the process of project implementation. This approach is generally in line with current Ukrainian legislation.

Finally, we focus on the importance of the human resources component, training of highly qualified personnel for work in the new system of regional administration. In Ukraine, there are few examples of initiative, well-organized work of local coun-

cils, there are not enough educated and trained leaders in the regions.

Improving the quality of professional training for the regional and local level administrative system, their retention and development is an important prerequisite for increasing local authorities' role in strengthening the regional and local development capacity and its effective use [9]. Annually, the National Academy for Public Administration under the President of Ukraine and its regional institutes graduate about 1500 professionally trained masters of public administration. At the same time, there is a vicious practice when officials are assigned to local state administrations by party quotas, or by political preferences, with an active intervention of oligarchic clans. It destroys the requirements of human resource policy and leads to miserable results. This practice is not possible in Germany, France, Poland as well as in other EU countries, where an effective system of civil servants training has been created.

Conclusions. Summing up we should first note that Ukraine has not yet successfully implemented the modern experience of democratization of European countries. In our opinion, the main methodological mistake was that, trying to adopt the liberal experience of Western democracies, Ukraine kept the Post-Soviet system of administration.

The centralized regional administration model with local state administrations playing a key role was formed in the independent Ukraine. Although in accordance with the legislation they are accountable to local self-government bodies in budget, socio-economic and cultural issues, as practice shows, they relate to councils as an appendage, which should approve decisions without special consideration, taking into account the interests and wishes of central authorities and not territorial communities.

Failure of attempts to take steps towards decentralization was conditioned by the absence of the political will of the supreme state leadership. Proclaiming the right ideas in concepts, draft laws and other program documents, the centre did not really want to share the power and was not ready to refuse from centralized distribution of financial resources.

At the same time, the European practice proves the efficiency of the transfer of powers (together with financial resources) from officials appointed by the central government to the community representati-

ves. In this regard, the practical implementation of the European course declared by Ukraine requires the reform of the territorial organization of power, the establishment of relations between the centre and the regions on the basis of the subsidiarity principle in accordance with the European Charter of Local Self-Government, ensuring the local communities financial self-sufficiency. Therefore, in our opinion, the continuation and bringing to an end of the decentralization process launched in 2014 is a prerequisite for the preservation of the state and its further development.

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