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CURRENT PROBLEMS AND PERSPECTIVES OF TERRITORIAL COMMUNITIES DEVELOPMENT IN CONDITIONS OF AUTHORITIES DECENTRALIZATION IN UKRAINE

Abstract: The paper analyzes the preconditions of conducting the decentralization reform in Ukraine. The place and role of a territorial community in Ukrainian budget system as well as the problems related to functioning of territorial communities at current development stage are outlined. The features of implementation of decentralization reform are analyzed and its major tasks are defined as, in the first place, achievement of optimal distribution of competences between local governments and local executive authorities and, in the second place, creation of capable territorial communities as the basic link of the new administrative and territorial structure. The need to develop perspective plans of communities' development is emphasized. The forms of state assistance to forming and development of territorial communities are defined, including elaboration of State Regional Development Strategy, strategies of territories' regional development, strategies of territorial communities' development as well as action plans for implementation of development strategies.

Key words: administrative and territorial structure, local governance, decentralization reform, development strategy, territorial community.

JEL classification: H23, H61, H73

Introduction

Reforming of authorities' territorial organization based on decentralization is one of the key conditions of reforming in Ukraine. It is impossible to develop a country without the development of its regions. It depends on how strong the regional authorities are and in what way they provide social services to population. Considering the importance of this problem, there is the growing need at the current stage of development of all authority's branches to enhance the theory and practice of contemporaneity of the state stipulated by transformations in political system of society and ongoing administrative and territorial reforms.

The purpose of the paper is to examine the processes of administrative and territorial reform and forming of consolidated territorial communities in conditions of decentralization.

Results of the research. Unfortunately, there haven't been any significant and fundamental changes in the system of public governance and territorial management in the years of economy reforming in Ukraine. That is why the decentralization reform should become the basis for reconstruction and forming of new territorial units. The public governance model in Ukraine was founded on domination of state authorities in solution of local governance and territorial development issues. Little attention was paid to decentralization, although the necessity to develop a new model of authorities' territorial organization and administrative and territorial structure was repeatedly emphasized in political environment and among experts. However, most of such endeavors remain to be at the stage of conceptual substantiations and draft laws. Moreover, the problems related to insufficient administrative-territorial structure and territorial management haven't reduced but rather accumulated in time. It is especially relevant for the lowest basic level - in villages, urban villages and small towns, where local governance usually is incapable to activate economic activity and provide favourable environment for human living activity. The new administrative and territorial structure should become

the basis for the development of a new model of territorial governance based on the principles of decentralization, subsidiarity, balance of national interests and interests of regions' and territorial communities' residents, omnipresence of local self-governance, capacity and independence of a territorial community to solve local issues.

The major task of the decentralization reform is to achieve the optimal distribution of competences between local governments and executive authorities based on subsidiarity and creation of capable territorial communities as the basic link of administrative and territorial structure. The fundamentally new for Ukraine principles of cooperation and voluntary consolidation of territorial communities take place in the framework of the reform. The logics of system approach to reforming of administrative and territorial structure requires that the process should be launched by the reforming of the basic level – the territorial communities.

The major objective of local governance reform is mostly to provide its capacity to solve local issues independently with own resources. It is about providing territorial communities with large resources and mobilization of their internal reserves.

Article 1 of the Law of Ukraine “On Local Self-Governance in Ukraine” provides that territorial community is the residents consolidated by permanent residing within the boundaries of a village, town or city that are independent administrative and territorial units, or voluntary consolidation of residents of several villages and towns, which have a single administrative center, village council (Verkhovna Rada of Ukraine 1997, Available from: <http://zakon2.rada.gov.ua/laws/show/280/97-ВР>). Adoption of the Law of Ukraine “On Voluntary Consolidation of Territorial Communities” and the Methodics of Forming of Capable Territorial Communities (Verkhovna Rada of Ukraine 2015a, Available from: <http://zakon3.rada.gov.ua/laws/show/157-19>) in 2015 urged the most important and responsible actions on their implementation in Ukraine and, in particular, in its regions.

Definition of “capable territorial community” is provided by the Methodics of Forming of Capable Territorial Communities of the Cabinet of Ministers of Ukraine. They are the territorial communities of villages

(towns, cities), which are able to provide (due to voluntary consolidation) independently or through certain local governing authorities the proper level of providing services, in particular in education, culture, healthcare, social protection and housing based on human resources, financial provision and development of infrastructure of the relevant administrative and territorial unit (Cabinet of Ministers of Ukraine 2015, Available from: <http://zakon3.rada.gov.ua/laws/show/214-2015-%D0%BF>).

Functions of a territorial community are the major directions and types of local activity that express the will and interests of local residents and maintain the relations they conduct with state authorities. The volumes of territorial communities' functions correspond to the volumes of functions of the system of local governments. The efficiency of public governance can be achieved through the adequate distribution of competences between the state authorities and local governments in terms of their performance of public and economic functions at relevant territories. Local authorities should address the issues of regional and local importance in the framework of the Constitution and legislation of Ukraine and secure the implementation of national programs. The Law of Ukraine "On Local Self-Governance in Ukraine" (Verkhovna Rada of Ukraine 1997, Available from: <http://zakon2.rada.gov.ua/laws/show/280/97-%D0%BF>) is the fundamental legislative act that gives the details to constitutional provisions on local self-governance. However, there are certain problems of organization of territorial governance system:

- legal provision of local self-governance as "a secured right ... of a territorial community to solve the issues of local importance" in practice turns into indefinite rights of communities and fragmentation of local governments' competences. In its turn, it leads to deeper conflict of interests between local governments of various levels as well as between local governments and state authorities at the level of regions and districts. Such contradictions complicate the establishment of efficient cooperation of local authorities and self-governments and make impossible the efficient governance of socio-economic development of the relevant territory;

- there is no clear distinction between the competences of local state administrations and local governments (the legal competences are overlapping), preventing the development of an efficient mechanism of their implementation monitoring;

- lack of solidary responsibility for the development of territories and low level of mutual trust between NGOs and authorities. Non-transparent activity of executive authorities and local governments, difficulties of performing the public control of their activity and insufficient involvement of the members of territorial communities in decision making prevent the efficient connection between public authorities and the institute of civic society. As a result, rational ideas of an active part of society often not only fail to reach an addressee able to implement them, but also face the opposition of local officials;

- unregulated issues of land ownership by territorial communities. It resulted in the reduction of competences of village, town and city councils in terms of land resources management to the boundaries of settlements, i.e. 12% of the country's territory. Therefore, local governments are denied the opportunities of efficient planning of their territory and defending their interests in decision making regarding the land management (National Institute for Strategic Studies 2015, pp. 207-208.).

The abovementioned problems stipulate the critical importance of reforming of authorities' territorial organization and administrative and territorial structure as its component according to the democracy-based models of European countries. Therefore, administrative and territorial structure should be based on the following principles:

- coherence of the system of administrative and territorial units created for implementation of local governance with the territorial structure of local executive authorities and other state authorities;

- omnipresence of jurisdiction of local executive authorities and local governments at the territories of administrative and territorial units, excluding several special status territories with the specialized administrations created by the relevant separate laws;

- consistency of the boundaries of administrative and territorial units with the boundaries of neighboring administrative and territorial units of the same level;
- mandatory location of the territories of administrative and territorial units within the territory of only one administrative and territorial unit of higher integration level;
- subsidiarity in distribution of competences between the levels of public authority;
- availability of liabilities for each level of administrative and territorial units, including the branch ones that are superior to other levels, which justifies the creation of this level of administrative and territorial units;
- consistency of the number of administrative and territorial units of the previous level that are in the sphere of impact of each public authority with the criteria of efficient management - from 5 to 15;
- consistency with the recommendations of the European Union regarding the Nomenclature of Territorial Units for Statistics (National Institute for Strategic Studies 2016, p. 61).

Territorial community's understanding of its own general interests that can differ from the interests of other territorial communities and the country is the foundation of local governance. Decentralization enables inclusion of society in solution of problems. People should know what the land is used for and what the taxes are spent for.

Regarding the implementation of decentralization reform in Ukraine it is worth mentioning that modern local governance in the developed European countries is based on the theory of free communities that stipulates that local governance is an institute independent from central authorities. To implement this approach efficiently in practice, the following preconditions are essential: democratic traditions, relevant level of democratic culture and sufficient level of civic society development. The system of local governance based on the system of territorial communities in these conditions has the following features:

- growing awareness about civic interests and readiness of residents to take over political responsibility for the decisions taken;

- distinction of the competences of the state and territorial communities, when the state minimizes the interference within the local governance process;

- activity of local governments is of democratic and transparent nature;

- competences distribution is based on subsidiarity principle;

- local governments' officials have special education and adhere to special ethics (Kaplan 2014, Available from: <http://old.niss.gov.ua/MONITOR/Juni/14.htm>). The Law "On Voluntary Consolidation of Territorial Communities" and the range of other legal and regulative acts cover these issues (Verkhovna Rada of Ukraine 2015a, Available from: <http://zakon3.rada.gov.ua/laws/show/157-19>). The Law also stipulates that consolidation should be voluntary.

Decentralization in Ukraine already has many successful examples in the form of consolidated communities and projects implemented by them. Efficiency of the reform is also confirmed by the growth of local budgets. However, the major feature of decentralization in Ukraine consists in the changed minds of people, who understand that they can impact the development of their communities and no one does it better than they do. The reform has shifted to the horizontal plane. Communities do not wait for the decision top down. They consult each other, learn from each others' achievements and mistakes and move forward. Currently, there are 782 consolidated territorial communities in Ukraine (Figure 1).

The state supports the voluntary consolidation of territorial communities. It provides informational, awareness raising, organizational, methodical and financial assistance to voluntary consolidation of territorial communities. Development of perspective plans of forming of the communities' territories in Ukrainian oblasts is another form of state support. The perspective plan is developed by oblast state administrations in correspondence with the Methodics (Cabinet of Ministers of Ukraine 2015, Available from: <http://zakon3.rada.gov.ua/laws/show/214-2015-%D0%BF>) developed by the Ministry of Regional Development, Construction and Housing of Ukraine and approved by the Cabinet of Ministers of Ukraine.

The state should provide the forming and implementation of state policy in the sphere of authorities' territorial organization, administrative and territorial structure, development of local governance. Therefore, such perspective plans are necessary. The amendments introduced to the Budget Code provide that all financial preferences are granted for territorial communities if the communities are created in correspondence with their perspective plans.

The major problem is creation of a large number of incapable (weak), subsidized consolidated territorial communities with limited resources (Verkhovna Rada of Ukraine 2015b, Available from: <http://zakon.rada.gov.ua/laws/show/79-19>). It is necessary to develop perspective plans:

- to properly implement state policy in the sphere of authorities' territorial organization and administrative and territorial structure;
- to prevent forming of subsidized and incapable territorial communities;
- to stimulate consolidated territorial communities created not according to perspective plan to further consolidate and create capable territorial communities.

It is also worth mentioning that the Cabinet of Ministers of Ukraine adopted the 2020 State Regional Development Strategy to contribute to efficient development of consolidated territorial communities (Verkhovna Rada of Ukraine 2014, Available from: <http://zakon.rada.gov.ua/go/385-2014-%D0%BF>).

The strategy defines the goals of state regional policy and main tasks of central and local executive authorities. It stipulates the consistency of state regional policy with other state policies directed at territorial development (Verkhovna Rada of Ukraine 2014, Available from: <http://zakon.rada.gov.ua/go/385-2014-%D0%BF>).



Figure 1: **Number of consolidated territorial communities in Ukraine**

Source: It is made on the basis of information (DECENTRALIZATION

2019, Available from:

<https://storage.decentralization.gov.ua/uploads/library/file/359/10.01.2019.pdf>).

The strategy is directed at outlining the tasks and instruments to solve social problems, improve the level of territories’ economic capacity, productivity of their economy, profitability of business and residents’ income and creation of conditions for overall improvement of social standards, quality of life and development of business environment. However, such interdependency requires allocation and implementation of an efficient fiscal mechanism and redistribution mechanism. Otherwise, there is a real threat of excessive polarization and increase of misbalances between the economy of cities’ development and the rest of the country’s territory.

Regional development strategies and strategies of consolidated territorial communities’ development are elaborated according to State Regional Development Strategy. It contributes to successful coordination of

efforts between central authorities, local authorities and consolidated territorial communities.

Conclusion

Therefore, the new administrative and territorial structure should become the territorial foundation for forming of the decentralized system of territorial governance, which will secure the maximized efficiency of the use of public resources, sustainable economic growth based on sustainable development and improvement of social standards of human living activity. The logics of system approach to reforming of administrative and territorial structure requires that the process should be launched by the reforming of the basic level – the territorial communities.

Starting from 2015, the decentralization has gained momentum and shows positive results. Further conducting of the reform requires legislative regulation. Flawed laws slow down the reform and the processes of sectoral decentralization, consolidation of territorial communities and economic growth of territories. In order to minimize the problems in territorial governance it is necessary to regulate the legislation regarding the transfer of competences to the local level. Practical use of the laws requires scientific and methodical provision. To efficiently implement the development strategies at state and regional levels it is necessary to comply with the clear Action plan, which will become the reliable way of development of the regions in the country and consolidated territorial communities in particular.

Overall, the process of consolidation of territorial communities goes on. It is extremely important to analyze the problems and mistakes emerging in the process of reforming and to take into account and correct them. That is why the issues of maintaining the development of consolidated territorial communities in Ukraine require the further research.

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