

THE DECENTRALIZATION AND DIRECTIONS OF STRENGTHENING THE LOCAL GOVERNMENT IN UKRAINE IN VIEW OF FOREIGN EXPERIENCE

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Demchyshak N. B., Shvets M. B., Mamchuk V. V. The Decentralization and Directions of Strengthening the Local Government in Ukraine in View of Foreign Experience

The article is aimed at defining the basic elements of sustainable development of local self-government in view of foreign experience. Ways of introducing reforms to effectively mobilize and utilize the local government resources have been determined. Consideration was given to the theoretical aspects of decentralization, which served as the basis for the adoption of a democratic model of government in Ukraine. The introduction of decentralization of power was analyzed in the context of the real status of the reform, problems encountered in its implementation, and measures for their effective implementation at both the local and the State levels. The steps taken by the EU Member States towards decentralization and the possibility of applying foreign experience by Ukraine were compared. It is concluded that the introduction of decentralized processes would contribute to the strengthening of democracy in the State and enhancing its stability.

Keywords: decentralization, budget, democracy, budget expenditures, income.

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Демчишак Н. Б., Швець М. Б., Мамчук В. В. Децентралізація та напрями зміцнення місцевого самоврядування в Україні з урахуванням зарубіжного досвіду

Метою статті є визначення основних елементів сталого розвитку місцевого самоврядування на основі зарубіжного досвіду. Визначено шляхи запровадження реформ для аналізу, ефективної мобілізації та використання ресурсів місцевого самоврядування. Розглянуто теоретичні аспекти децентралізації, яка служить основою в утвердженні демократичної моделі управління в Україні. Проаналізовано впровадження децентралізації влади в контексті реального стану реформи; проблеми, які виникають на шляху її реалізації, та заходи з їх ефективного вирішення як на місцевому, так і на державному рівнях. Порівняно кроки, які застосовували держави ЄС на шляху децентралізації, та можливості застосування зарубіжного досвіду Україною. Робиться висновок, що впровадження децентралізаційних процесів сприятиме посиленню демократії в державі та підвищенню її стабільності.

Ключові слова: децентралізація, бюджет, демократія, видатки бюджету, доходи.

Табл.: 3. **Бібл.:** 17.

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Демчишак Н. Б., Швець М. Б., Мамчук В. В. Децентралізація і напрямлення укріплення місцевого самоуправління в Україні з урахуванням зарубіжного досвіду

Целью статьи является определение основных элементов устойчивого развития местного самоуправления на основе зарубежного опыта. Определены пути внедрения реформ для эффективной мобилизации и использования ресурсов местного самоуправления. Рассмотрены теоретические аспекты децентрализации, которая служит основой утверждения демократической модели управления в Украине. Проанализировано внедрение децентрализации власти в контексте реального состояния реформы, проблемы, возникающие на пути ее реализации и меры для их эффективного внедрения как на местном, так и на государственном уровнях. Сравнены шаги, которые применяли государства ЕС на пути децентрализации, и возможности применения зарубежного опыта Украиной. Делается вывод, что внедрение децентрализованных процессов способствует усилению демократии в государстве и повышению его стабильности.

Ключевые слова: децентрализация, бюджет, демократия, расходы бюджета, доходы.

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At the current stage of the development of Ukraine as a democratic state, introduction of reforms to decentralize power plays an important role, which lies in strengthening democratic government, transferring power to territorial authorities, ensuring wide participation of citizens

in managing affairs of the state and society. The problem of decentralization today is very important and presents a matter of concern for scientists, experts and the public.

Previously the problem of state power decentralization and local self-government in Ukraine has been studied

by well-known scholars, such as O. Batanov, N. Bykadorova, V. Bordenyuk, J. Brueckner, M. Izha, V. Kampo, A. Matvienko, P. Trachuk, and others. Since the reform has only recently entered into force, we believe that it is important to continue research in this field paying a special attention to the problems of the reform implementation and measures to solve them.

The *aim* of the article is to characterize the process of decentralization and determine the current status of reforming and strengthening the local self-government system based on the experience of EU countries.

Decentralization is a method of definition and division of tasks and functions in which most of them are relegated from the central level to the lower levels of authority [1].

Decentralization is aimed at “improving the effectiveness of government mechanisms and stimulating the activity of regions and municipalities on the basis of democracy and efficiency indicators, such as rights, responsibilities and legitimization of the interests of the local population, structured in communal municipal and regional groups, as well as bodies of local self-government” [2, p. 140].

There are two types of decentralization: administrative (bureaucratic) and democratic one.

Administrative decentralization means extending the jurisdiction of bodies of local self-government acting within the competence of their own and to some extent independently of the central government. Democratic decentralization involves creation of an extensive system of local self-government when local affairs are resolved not by the central government but the person elected by the local population [3, p. 152].

Both decentralization types are widely discussed in academic circles and among politicians, experts and the public, but the advance of this process in our country at present is slow. To some extent, this is because, firstly, Ukraine is a unitary state, and it provides centralized governance; secondly, the limited powers prescribed by the local legislative documents; thirdly, the low activity of the public in the process of democratization of society.

It is doubtless that decentralization is a form of democracy that allows to preserve the unity of the state and its institutes, expand the rights of local self-government bodies, stimulate people to ensure their own needs and interests, narrow the scope of the influence of the state on society replacing the impact mechanisms of self-regulation produced by society, reduce the expenditure of the government and taxpayers on maintaining the state apparatus [4, p. 23].

Decentralization has certain advantages, as it involves the transfer of control over the maximum number of cases directly into the hands of interested parties or their representatives [5, p. 94].

Vladimir Groisman stresses that the state, giving the power to local self-government bodies, does not lose its central importance, but rather gets the possibility of building a coherent and effective body of social management [6, p. 29].

“It is at the local level,” I. Tsurkanova says, “where people are able to influence decisions that improve their lives directly, the theoretical foundations of democracy are filled

with practical content, and this gives a significant impetus to the development of democratic processes throughout the society” [7, p. 276].

The current global trends show that most countries tend to decentralize their governments. This is, *firstly*, due to the fact that decentralization is accepted as a means of providing different ethnic and regional groups with some autonomy and control over their own affairs. The idea is that if various ethnic and regional minorities have some autonomy, some ability to make decisions on their own local affairs regarding education, culture and economic development, they will feel more secure and be more willing to accept the authority and legitimacy of higher bodies of the state power system.

Secondly, decentralization of power is adopted as a means of sharing power among lots of different political parties. Parties and groups that cannot win control of the central government may win the opportunity to exercise power in some of the lower-level governments. This increases their confidence in and commitment to the political system, and the sense among citizens generally that the system is fair and inclusive.

Thirdly, democracy has become a core value and framework of governance all over the world, and decentralization is seen as a fundamental democratic principle. It is not enough for people simply to be able to choose their national leaders in periodic, free and fair elections. In countries of moderate to large size, a good democracy requires that people be able to elect their own local leaders and representatives, and that these local governments have some real power to respond to the needs of the people [8, p. 12].

In the majority of member countries of the European Union a phenomenon of the progressing decentralization of state power is observed and the process of forming and strengthening regions are the most dynamic elements of this decentralization.

Decentralization is perceived as the process of handing the powers of decision-making over to the lower level of the organizational hierarchy, while centralization means getting the powers back from the lower level and delegating them to the higher levels.

One of the sources of the ongoing and deepening political and economic crisis in Ukraine is the excessive concentration of power in the hands of the central government. Decentralization became a top priority on Ukraine’s political agenda in the aftermath of Euromaidan in February 2014 as a result of the pronounced public demand for the devolution of power and resources to local communities and a subsequently strong commitment by the new political elite to reform the existing system of local governance [9, p. 6].

Since Ukraine’s independence, ordinary citizens had little to say on public affairs at the local level. In November 2014, before the start of major decentralization initiatives, only 9% of Ukrainians were satisfied with their ability to influence local government decisions in their residential districts, while 74% expressed their dissatisfaction. Public discontent with local authorities stemmed from their inability to provide high-quality and affordable services, such as utilities, transportation, road infrastructure, healthcare, and

education. Finally, citizens felt they lacked effective instruments to hold local authorities accountable [10, p. 11].

Territorial communities in cities, towns and villages lacked resources to take charge of the situation. The main problem of administrative units is that 96,3% of local budgets were dependent on state handouts. In addition, most territorial communities lacked human resources to be financially sustainable. Furthermore, a large number of communities simply lacked sufficient manpower to generate income [11, p. 3].

Finally, real powers were concentrated in the hands of appointed state officials who promote extensive national control over regional development [12, p. 5].

In 2015 there was conducted the first stage of the fiscal decentralization characterized by the adoption of changes to the Budget and Tax Code of Ukraine regarding the transferring to local self-government bodies of additional budget authorities and the securing of stable sources of revenue for their implementation. Among the introduced changes empowering local governments in decision making and providing full fiscal autonomy in filling local budgets as well as implementing their expenditure responsibilities are of priority. At the same time the changes provide for increasing the sources of revenue base of local budgets through the transfer of certain income of the state budget, introducing a new type of tax – excise duty on final sales, expanding the basis for real estate tax assessment. Also a new mechanism for budgetary control was introduced – a system of total balance of all local budgets was replaced with a system of horizontal fiscal equalization of areas depending on the level of income per capita. However, the equalization concerns only one tax – the personal income tax, other payments remain at the full disposal of local authorities. To implement expenditures on the powers delegated by the state in the fields of education and health, new state budget subsidies to local budgets – the educational and medical one – were introduced [13].

The introduction of the fiscal decentralization reforms allowed to ensure the increase of financial resources of local budgets in 2015. The local budget revenues excluding transfers in 2015 rose to 120,5 billion USD, which is by 19,4 billion or 19,1% more than in 2014. The revenues including intergovernmental transfers amounted to 294,4 billion USD, which is 40% more than in 2014 [13].

The individual income tax revenues amounted to 53,6 billion USD, which is 23,1% more than in 2014, and the plan was fulfilled 113,7%. The revenues from land use fees amounted to 14,5 billion USD, representing 112,2% of the planned annual rate.

The adopted in 2015 amendments to the Budget and Tax Code of Ukraine served a basis for the growth of revenues of local budgets. In addition, an increase of the revenue base of local budgets was ensured through the transfer of certain revenues from the state budget: 100% of payment for the provision of administrative services, 100% of the state duty, 10% of the income tax of enterprises in the private sector of the economy and also 80% of the environmental tax (previously – 35%) were credited to local budgets.

Since 2015 in the context of fiscal decentralization at the local level there was introduced new excise duty on re-

alization by entities in retail trade excise goods at the rate of 5% of their excisable value. The experience of its collection during 2015 was a success: revenues amounted to 7,7 billion UAH or 6,4% of the local budget revenues excluding transfers. The annual plan was corrected every month on approaching its fulfillment. So the revenues were more than by 2 times greater than the plan that was approved in March (3,5 billion UAH) and by 17,4% more than it was planned for December (6,5 billion UAH) last year. In 2016 annual revenues were expected at the level of 6,9 billion UAH or 7,4% of revenues of local budgets (93,4 billion UAH) excluding transfers. For the first time, local authorities had a real interest in local control of illegal production and circulation, as well as smuggling of excisable goods to fill their own budgets.

There was conducted an expansion of the scope of property tax: decreasing the area of the real estate that is not subject to taxation, including non-residential (commercial) property in the tax base, and introducing vehicle tax. The revenue from the tax on real estate amounted to 736,9 million USD. At the same, the changes to the Tax Code of Ukraine have increased the fiscal independence of local self-government bodies in making decisions concerning local taxes, in particular through granting the right to independently set the tax rates and establish privileges for their payment.

In 2015 the share of own resources in the structure of local budgets increased by 30% (the national average without PIT) and, if include in the calculation the personal income tax (which, being a fixed tax, became an own resource of local self-government), then it increased by three times. Local self-government bodies obtained real resources to address local issues (housing, landscaping, local socio-economic programs, infrastructure upgrading). For all tax revenues to local budgets a stable fulfillment and over-fulfillment of the forecast indicators was observed almost in all regions [14].

On February 5, 2015, there was adopted the Law of Ukraine “About voluntary consolidation of territorial communities”, which allowed local self-government bodies to unite into territorial communities and de facto form new administrative territorial units (ATUs) – integrated territorial communities (ITCs). Almost for two years 367 ITCs are to be formed in Ukraine: 159 of them in 2015 and 209 in 2016 (till 01.01.2017).

According to the estimates made using the data of the Ministry of regional development of Ukraine [12], at the beginning of 2017 about 15% of local self-government bodies will join the newly created ITCs (11624) [14] with the expected total amount of population of about 3,1 million people.

In general, as already mentioned, as of September 1, 2016, the number of officially formed ITCs in Ukraine was 184. 159 of them were established in 2015, and they are completely viable ITCs with a common budget and have formed all relevant services for the implementation of their own powers as well as those relegated to them by the state. The other 25 ITCs were established within 11 months of 2016. De jure they are completely independent ITCs, which have held their first local elections of the Mayor and Council Members and are forming their executive bodies. However,

according to the current legislation, budgets of such ITCs were to be implemented starting from a new fiscal year, i.e. from 2017. Also according to the state register of voters, in December 2016 there took place elections in 183 newly created ITCs. So by the end of 2016 in Ukraine there were established 367 ITCs, which is about a quarter of the planned number [14].

The first indicator that determines the financial viability of an ITC is income per capita. The figures are presented for 2016. The highest income per capita is observed in Verbivka ITC, Dnipropetrovsk region (7,2 thousand UAH per capita), Bohdanivka ITC, Dnipropetrovsk region (6,9 thousand UAH per capita), Baykivtsi ITC, Ternopil region (5,6 thousand UAH per capita). The figures for the rest 14 ITCs are in the range from 2 to 3 thousand UAH per capita. In general, for 91 of 159 ITCs the indicator is at the level of over 1 thousand USD per capita. The other 58 ITCs have lower rates of return. The average budget income per capita for the INCs is 1,3 thousand UAH, which actually corresponds to the average figure for Ukraine – 1,4 thousand UAH (Table 1).

Table 1

Budget income per capita for ITCs

Indicator value	Number of ITCs	Share, %
More than 2,8 thousand UAH	8	5,0
2,1 – 2,8 thousand UAH	10	6,3
1,4 – 2,1 thousand UAH	36	22,6
UAH 0,7 – 1,4 thousand UAH	61	38,4
Less than 0,7 thousand UAH	44	27,7
Total	159	100,0

The presence of development budgets – another indicator characterizing the financial viability of newly created ITCs. However, it is not the existence of the development budgets that indicates the amount of money that should be used by ITCs for the development of their territory but their number and, which is most important, the share in the total budget of the ITCs (Table 2).

Table 2

Share (percentage) of expenditure on development in own resources of ITCs (without subsidies)

Indicator value	Number of ITCs	Share, %
More than 40%	4	2,5
20,01 – 40,00%	24	15,1
10,01 – 20,00%	27	17,0
Less than 10%	51	32,1
Development budgets are absent	53	33,3
Total	159	100,0

However, the most representative indicator of financial viability of newly created ITCs is the share of subsidies in their budgets. It shows the real amount of ITCs budget revenues. According to the Ministry of Regional Development

[4], only 22% of ITCs (34) are not subsidized. Among the subsidized budgets (125), 40% of ITCs (50) have the share of subsidy from 0,5% to 20%, 40% of ITCs (50) have the share of subsidy from 20% to 50%, and 20% ITCs (25) have the share of subsidy of 50%. The largest share has Zoloty Potik ITCs, Ternopil region – the subsidy amounts to 70%. The average share of subsidies in ITC budgets is 27,6% (Table 3).

Table 3

Subsidy share in ITC budgets

Indicator value	Number of ITCs	Share, %
More than 50%	22	13,8
30,01 – 50,00%	30	18,9
10,01 – 30,00%	52	32,7
Less than 10%	21	13,2
Not subsidized	34	21,4
Total	159	100,0

During the implementation of the decentralization reforms, the Ukrainian government relies on foreign experience, especially the Polish one. Poland has been a unitary state, subordinated to the authority of the center and never had a tradition of regional federalism, though, throughout history, certain parts of Poland attained some degree of autonomy.

Reforms of decentralization in Poland started in 1979. On January 1, 1999, the reform became effective, giving the newly elected councils three months to organize. The reform reduced the number of voivodeships to 16 and created 308 powiats, while 65 urban gminas were given powiat rights. In the new system, the 2,424 gminas constitute the basic level of public administration, endowed with all powers not specifically reserved for other levels. They run nurseries, kindergartens, elementary schools, libraries, and cultural centers and maintain local roads. They also are responsible for land management and planning, zoning, water mains, electricity and heat supply, local public transport, primary health care services, municipal housing and many social welfare programs.

The gminas have their own budgets. They are responsible for all public matters of local significance not reserved by law for other entities and levels of authority. Finally, they perform tasks relegated to them by the central government-assured by law of the funds necessary to carry out delegated tasks [16].

The powiats are responsible for local issues which, “due to the subsidiarity and proportionality principles, cannot be ascribed to the gminas.” They run secondary education, the operation of public health services, run orphanages, support the disabled, manage emergencies and natural disasters, construct and maintain powiat roads, and protect consumer rights.

The voivodeship councils, or local councils, are responsible for the development and implementation of regional economic policies; their task is to stimulate business activities and improve competitiveness and innovation in the region. These bodies are independent legal identities with independent budgets (like powiats and gminas). They

are also responsible for higher education, specialized health services, and supra-local cultural activities. The local councils are elected in general elections. The voivodes, on the other hand, are state-appointed officials who represent the central government at the regional level.

Together with the reform of the administrative system of the country, local self-government bodies received the autonomy and the freedom of making decisions, what gives great abilities in steering the local economy. However, the freedom of making decisions concerning the directions of development of the system of local self-government should be connected with fulfilling tasks envisaged by the relevant legislation acts.

A. Potoczek thinks that three main mechanisms of the political and territorial realization of the implemented reform in Poland are:

a) decentralization – understood as statutory handing over competence and tasks of the government administration to bodies of the local self-government;

b) delegation – determined as moving rights and tasks to units of the lower level as part of the government administration and by analogy as part of the local self-government;

c) deconcentration – comprehended as excluding certain matters from the regulation of the public administration and handing over them to nongovernmental institutions [17, p.15].

According to the Polish government, “these reforms increase citizens’ ability to control and monitor public institutions and to ensure that public money are spent effectively.

To overcome problems of decentralization in Ukraine we can offer such ways of its implementation.

For the parliamentary factions supporting the constitutional changes:

a) Engage with smaller factions on the legislation about local self-governance and prefects. By doing so, the President’s allies in parliament would create good will and allow their colleagues to address their grievances through specific amendments to regular legislation.

For the President and the Cabinet of Ministers:

a) Launch a public campaign to explain the constitutional amendments in a plain and accessible language and organize town hall meetings with the availability of key government officials to answer questions from the public.

b) Increase the transparency and inclusiveness of the reform.

For the members of parliamentary coalition:

a) Ensure that the institution of prefects is politically independent of the president and the cabinet.

To prevent any future conflicts between those, who control prefects, they should be appointed by means of transparent competition with minimal input from both ‘heads’ of the state. The legislation should also stipulate a clear set of reasons for dismissing prefects to narrow down any subjective interpretation by the President or Prime Minister of their authority in this matter should they have the ability to dismiss prefects at will.

For Ukrainian civil society organizations:

a) Contribute their expertise to elaborating the laws on self-government and prefects. By participating in the

preparation of the key draft laws, Ukrainian CSOs and think tanks will improve the legislation necessary for implementing the relevant constitutional provisions.

b) Monitor the development of new legislation on decentralization. Ukrainian CSOs are well positioned to scrutinize the process of developing the laws and raise alarm if the process lacks transparency or risks undermining the main achievements of the decentralization reform.

CONCLUSIONS

Decentralization of the Ukrainian political system is currently in the very focus of political, public and scientific debate.

However, this reform is not likely to be an easy one. The prerequisites for a successful decentralization include functioning democratic mechanisms – fair elections, a free press and a strong civil society – resulting in government accountability.

Reforms transformed Poland into “a modern state, capable of using effectively its economic, social and political potential; a democratic state, whose public and private values belong to a shared European civilization; a state that functions in accordance with clear and transparent procedures, and is permanently controlled by democratically elected representatives of the people ... a state in which local and regional communities can rebuild their identities and manage their own affairs, and in which the principle of subsidiarity is respected by all levels of government; a state capable of shouldering the responsibilities and sharing the benefits of participation in supranational organizations and structures...” [17, p. 62].

By decentralizing responsibilities, the central government relieves itself of performing local tasks that it performed poorly, allowing itself to focus on truly strategic issues. The reforms should also allow Ukrainians to take full part in the economic and security structures of Ukraine. They will help the Ukrainian state secure its position in the arena of international politics as a fully sovereign, resourceful, and responsible partner. ■

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