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SOCIAL STANDARDS AND DECENTRALIZATION OF POWER: FINANCIAL-LEGAL AND ADMINISTRATIVE-LEGAL ASPECTS

Abstract. The article deals with the problems of decentralization of power in Ukraine and certain foreign countries. Positive and negative moments of economic and social development of regions after the consolidation of territorial communities are considered. The state social standards that are considered in the programs of economic and social development are analyzed.

The purpose of article is to study how the processes for decentralization of power, finances, etc. are run under conditions of financial, economical and political crisis that take place in Ukraine and countries of Europe.

The decentralization of power for Ukraine was a call of the times in the 90-ies of the XX century. And in the XXI century the decentralization of power hides the aspiration of powerful subjects to receive more power, to obtain easier access to state funds. Declaring the interests of territorial communities, as well as the aspiration for solution of problems, being common with neighboring communities as the purpose of decentralization is only the shielding what Ukrainians do not want to hear, what cannot be announced as this will contradict to course of Ukraine to European integration, will contradict to the struggle against corruption, announced in the state.

Taking into consideration the abovementioned facts, Ukraine has all prerequisites and conditions for successful decentralization. At the same time, the real situation and delay of appropriate processes in time testifies to the fact that not the prerequisites for decentralization, fixed at the legislative level, are of larger importance in our state but their practical implementation

We think that the prerequisites for performance of successful decentralization are the improvement in managerial efficiency of local self-government (these authorities shall be capable and interested in taking decisions that in fact may be fulfilled); preparation and involvement of highly skilled staff; cooperation between public authorities at all levels pursuant to equal conditions; provision with control over taking and fulfilling the decisions by self-governments.

Summing up the abovementioned, we will mention the following. The decentralization of power for Ukraine was a call of the times in the 90-ies of the XX century. And in the XXI century the decentralization of power hides the aspiration of powerful subjects to receive more power, to obtain easier access to state funds. Declaring the interests of territorial communities, as well as the aspiration for solution of problems, being common with neighboring communities as the purpose of decentralization is only the shielding what Ukrainians do not want to hear, what cannot be

announced as this will contradict to course of Ukraine to European integration, will contradict to the struggle against corruption, announced in the state. Besides, we think that the steps in reformation for local level of power under crisis conditions are very untimely as this may provoke the ungovernability of certain territorial communities.

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СОЦІАЛЬНІ СТАНДАРТИ І ДЕЦЕНТРАЛІЗАЦІЯ ВЛАДИ:

ФІНАНСОВО-ПРАВОВІ ТА АДМІНІСТРАТИВНО-ПРАВОВІ АСПЕКТИ

Питання про зміну відносин владної субординації вже давно привертають увагу вчених та практиків. При цьому саме останні були рушійною силою, яка стимулювала відповідні зміни. Там, де є влада, там є державні ресурси; а саме державні органи займаються питаннями щодо розробки, затвердження та виконання бюджетів, кошторисів тощо. Таким чином, коли виникали питання про необхідність змін у владі, одночасно виникала потреба у зміні підходів до формування та використання публічних (зокрема, бюджетних) ресурсів.

У статті розглядаються проблеми децентралізації влади в Україні та окремих зарубіжних країнах. Аналізуються позитивні та негативні моменти економічного та соціального розвитку регіонів після консолідації територіальних громад. Проаналізовано державні соціальні стандарти, які розглядаються в програмах економічного та соціального розвитку.

Мета статті – вивчити, як відбуваються процеси децентралізації влади, фінансів тощо в умовах фінансової, економічної та політичної кризи, що мають місце в Україні та країнах Європи.

Децентралізація влади для України була покликом часів у 90-х роках ХХ ст. А в ХХІ ст. децентралізація влади приховує прагнення потужних суб'єктів отримати більше влади, отримати більш простий доступ до державних коштів. Декларація інтересів територіальних громад, а також прагнення до вирішення проблем, спільність із сусідніми громадами як мета децентралізації є лише захистом того, що українці не хочуть чути, чого не можна оголосити, оскільки це суперечуватиме євроінтеграційному курсу України та боротьбі з корупцією, оголошеній в державі.

Основна думка полягає в тому, що не варто ідеалізувати європейський чи світовий досвід, приймати поради та рекомендації закордонних експертів за їх номінальною вартістю, оскільки ЄС взагалі та його країни-члени зокрема (як і інші країни у всьому світі) перебувають у постійному стані розвитку. Досвід – це експеримент, який може мати як позитивні, так і негативні прояви. Наша держава не повинна бути "піддослідною мишею". Хоча все, що зараз відбувається, є свідчення того факту, що Україна, на жаль, певною мірою є таким піддослідним.

Можна помітити, що те, що зараз в Україні подається як «децентралізація», відбулося в європейських державах майже 70 років тому. У зв'язку з цим актуальність національної децентралізації як такої, що ґрунтується на європейському досвіді, можна вважати досить спірною, оскільки ці процеси мають різне історичне коріння.

Враховуючи зазначені вище факти, в Україні є всі передумови для успішної децентралізації. У той же час реальна ситуація та затримка відповідних процесів у часі свідчить про те, що засади децентралізації, закріплені на законодавчому рівні, мають більше значення у нашій державі, ніж їх практичне впровадження.

Передумовами успішної децентралізації є підвищення ефективності управління місцевим самоврядуванням (ці органи влади повинні бути спроможними та зацікавленими приймати рішення, які фактично можуть бути виконані); підготовка та залучення висококваліфікованого персоналу; співпраця між органами державної влади на всіх рівнях на рівних умовах; забезпечення контролю над прийняттям та виконанням рішень органів місцевого самоврядування.

Ключові слова: децентралізація, влада, економіка, соціальні стандарти, бюджет, фінанси.

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СОЦИАЛЬНЫЕ СТАНДАРТЫ И ДЕЦЕНТРАЛИЗАЦИЯ ВЛАСТИ: ФИНАНСОВО-ПРАВОВЫЕ И АДМИНИСТРАТИВНО-ПРАВОВЫЕ АСПЕКТЫ

Аннотация. Исследуются проблемы децентрализации власти в Украине и отдельных зарубежных странах. Рассматриваются положительные и отрицательные моменты экономического и социального развития регионов после проведения укрупнения территориальных общин. Анализируются государственные социальные стандарты, которые

обязательно учитываются при разработке программ экономического и социального развития. Исследован процесс децентрализации власти в условиях финансового, экономического и политического кризиса.

Ключевые слова: децентрализация, власть, экономика, социальные стандарты, бюджет, финансы.

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Introduction. The issues about change in relations «power-subordination» attract the attention of scientists and practitioners for a long time. Hereby, namely the latter ones were the driving force that gave an incentive to the appropriate changes. There, where there is the power, there are the public resources; namely public authorities are engaged in issues about development, approval and fulfillment of budgets, estimates, etc. Thus, when the issues about necessity in changes within the power arose, at the same time the need in change in approaches to formation and use of public (in particular, budget) resources appeared.

Brief Literature Review. The problems that are studied in the article have been and now are in the public eye of famous scientists. In particular, we mean the papers by such scientists as A. Aristovnik (2012) [2], Ž. Oplotnik, M. Finžgar (2012) [3], M. Jilek (2015) [4], A. Rodríguez-Pose, A. Krøijer (2009) [5], J. Kulawik (2016) [6], W.E. Oates (2005) [7], Ch.M. Tiebout (1961) [8], M.C. Maure) (1993) [9], B.M. Danylyshyn (2016) [10], M.I. Karlin (2016) [11], V.H. Demianyshyn (2008) [12], M.I. Derkach (2011) [13], O.V. Dluhopolskyi (2011) [14], N.V. Matsedonska and L.M. Klividenko (2017) [15—16].

The purpose of article is to study how the processes for decentralization of power, finances, etc. are run under conditions of financial, economical and political crisis that take place in Ukraine and countries of Europe.

Research results. The Law of Ukraine «About Voluntary Union of Territorial Communities» was adopted in 2015. It seems to be as if a perspective document to some extent, at the same time its purpose is somewhat disputable. Thus, in addition to existing ones, the new — united territorial communities are established with own budgets, to which the funds are allocated directly from State Budget of Ukraine. According to P. 3 Art. 5 in Budget Code of Ukraine the budget system will be added with the new component — budgets of united territorial communities.

The Ex-Prime-Minister of Ukraine V. B. Hroisman in Report about work of Cabinet of Ministers for 2017 and in main directions for reforms in 2018 emphasized that the top-priority, in particular, is «the formation of new quality in state management with maximum use of digital infrastructure, extension of decentralization and purpose-oriented and efficient orientation and use of state resources, first of all budget funds — due to advanced budget programs, among which the program «Affordable medicines» and the land, which is transferred into possession of united territorial communities». At present moment almost 700 communities are established. That is to say, the issue about different regional autonomies may be accentuated in the very near future.

Bringing the regional self-government to independent level under conditions of instability in political and financial situation in the country may in the perspective have the negative consequences (in particular, we mean the artificial accumulation of «desire» to receive the autonomy by some regions»). Now, vice versa, it is necessary to reinforce the influence of state. Only after proscription of Russian occupational power from Ukrainian land we should consider the issue about renewal of local and regional self-government. The united territorial communities in present realities may play not the best role in consolidation of Ukrainian nationhood.

When the solution of all affairs in the state depends on state authorities and head of the state, so, this is a totalitarian country; if the issues are solved at the local level and the prescriptions of law are not always hereby followed to, so, this is anarchy already. In this connection, it is necessary to define the limits for decentralization of power, so that such processes would not influence on territorial integrity of the country and hereby the local self-government would be efficient. Unfortunately, now the issues about such limits for decentralization of power remain without legislative answer. Moreover, the present realities testify to reverse side of decentralization — we

mean the absence of control for activity of local self-government in Ukraine, in particular, in occupied territories.

Let's mention that the processes for enlargement of basic level in administrative territorial system have taken place in all European countries. Starting since the 50-ies in the XX century the total number of local self-governments in Europe has reduced almost by 40 thousands. Such countries as Lithuania, Sweden and Denmark have reduced the number of local self-governments by 80%, Great Britain — by 77%. Germany in its time has reduced the number of communities by half. As a result from reforms during the 60-70-ies in the XX century the small communities were either united into larger units, or grouped into associations of municipalities under joint management. The governments in countries of Northern Europe were the first ones, which took the decisions about enlargement of territorial units to the sizes that are optimal for implementation of governmental social programs. This was made to balance the purposes for economical efficiency in rendering the public services and in provision with democracy at local level that is for participation of community in management. Theoretically the economical benefits are increased with increase in size of community thanks to the effect of scale; however, the level of community influence of decision taking is reduced. In this connection, the ambiguous results from experience in unity of territorial communities are stated [23]. In total for the period since 1950 the total number of local self-governments in Europe has significantly reduced almost by 40 thousands that are stipulated both by urbanization processes and orientation to improvement in efficiency for provision with public services (benefits) at local level. Such tendency was launched in countries of northern Europe, which governments were the first ones that took the decisions about enlargement of territorial units to the sizes, which are optimal for implementation of governmental social programs [10, p. 9].

The movement of local development was activated in France in the 1970-ies. During 1982—1986 France took over 40 laws, directed to decentralization. The main purpose of reform was to modernize the administrative system through improvement in its ability to react to daily needs of population and to assist to implementation of local projects for economical development. The Law 1982 «About Rights and Freedoms of Communities, Departments and Regions» anticipated the competence for decentralized level of government in the sphere of economics. The driving force of reform was the economical interests and relations that were gradually developed at local level... It is important to mention that the success of French decentralization became possible thanks to consensus of political leaders and approval of reform by citizens; the decentralized levels of management acquired the larger autonomy and became more responsible for their actions and rendering the public services to population became more efficient» [24, p. 17].

The processes for enlargement of territorial communities and assignment of reliable sources of proceeds for them were also activated in Denmark since 2007. In particular, the number of communities has reduced from 271 to 98, and their size has significantly been increased — almost 75% of communities with the population of over 30 thousands, and the average number exceeds 50 thousands persons. Besides, the enlargement involved the regions — from 14 to 5 with population of 0.6—1.6 millions persons that allowed them being included into group of regions at NUTS-2 level and, accordingly, becoming the objects of EU regional policy (EU unity policy). In general 65% from all budget expenditures are financed from local budgets, hereby 53% — from budgets of local self-governments, and only 12% — from regional ones [10, p. 9—10].

Two generalized schemes for unity of territorial communities are distinguished in countries of Europe: *Northern European*, within which the large municipalities were formed (for example, in Sweden, England) and *Southern European* — with unity of communities in relatively small municipalities (for example, in France, Italy). Thus the average size of community in Sweden is 34 thousands residents, in Denmark — 55 thousands, in England — 120 thousands. In some lands in Germany the reforms caused to increase in the average size of municipality up to 45 thousands residents. France is the leader in Europe due to the number of local self-governments (it has over 36 thousands and the number of population in most of them does not exceed 2 thousands). It is necessary to mention that the territorial reforms on significant enlargement of municipalities in

most countries of Europe were officially voluntary as it is announced in Ukraine. However, in fact, the degree of free will was not very high, and the territorial reforms were implemented with significant compulsory component. As a rule, the commissions, which prepared the recommendations for establishment of the new territorial format in system of local self-government, were established at the level of government [23, p. 12]. Such experience in «voluntary compulsory» unity of communities shall be studied in Ukraine and be avoided.

The essential thought is that «it is not worthy idealizing European or world experience, taking the advice and recommendations of foreign experts at their face value as EU in general and its member-states in particular (as other countries all over the world) are in permanent condition of development almost in all spheres of public life» [23, p. 7]. Experience is an experiment that may have both positive and negative manifestations. Our state shall not be a «laboratory rat». Although all that happens now is the testimony to the fact that Ukraine unfortunately is such «rat» to some extent.

So, one can notice that what is now in Ukraine presented as «decentralization» took place in European states almost 70 years ago. In this connection, the actuality of national decentralization as the one, which is based on European experience, may be considered as rather disputable, as these processes have different historical roots.

It is considered that among others the important prerequisites for successful implementation of European decentralization phenomena and efficient managements in system of decentralized power are [24, p. 14]:

- Consolidation of principle for rule of law (this principle was proclaimed in Art. 8 in Constitution of Ukraine still in 1996: «the principle for rule of law is acknowledged and acts in Ukraine»);

- Acknowledgment and guarantees of local self-government (according to Art. 2 in Law of Ukraine «About Local Self-Government in Ukraine» the local self-government in Ukraine is the right, guaranteed by state, and the real capability of territorial community — residents of village or voluntary unity of residents from some villages into village community, of settlement, city — on their own or under responsibility of authorities and officials of local self-government, to solve the issues of local importance within the Constitution and laws of Ukraine. So to say, the local self-government in our state is acknowledged, guaranteed and supported);

- Equal legal protection for all patterns of ownership (according to S. 5 Art. 116 in Constitution of Ukraine the Cabinet of Ministers of Ukraine provides with the equal conditions for development of all patterns of ownership);

- Democratic and efficient electoral legislation (in general at present moment the laws about election of people's deputies of Ukraine, President of Ukraine, deputies of local councils, etc. are adopted. The problem is that each new convocation of Verkhovna Rada of Ukraine at once from the beginning of its work starts actively preparing for new election and thus proposes not the changes but the new laws about election. This, in its turn, contradicts to the criterion for efficiency of electoral legislation);

- Independence, efficiency, accessibility and transparency of judicial system, functioning the institutes of administrative legal proceedings (in general, the issues about judicial system, judicial power in Ukraine are today very critical; the reform of judicial power lasts — the process for formation of Supreme Court of Ukraine, other courts through open competitive selection was unprecedented in the country);

- Developed public sector or stable tendency to its development (we mean the community of active members. Ukraine has the problem in this relation as there are enough active members, however some of them defend the civil, public interests at their own will, and the defense of such interests for others is the part of work as they are engaged into it for remuneration and not due to the call of the soul, heart, etc.);

- Perfect budget process and high financial discipline (the issues of budget process are rather well regulated at the legislative level; as it concerns the observance and implementation of appropriate norms — this is already the question to officials, all subjects of budget legal relations.

Until Ukraine is at the head of anti-rating for the most corrupted countries in Europe, we cannot speak about any high financial discipline);

- Available adequate social standards (the Law of Ukraine «About State Social Standards and State Social Guarantees» was adopted in 2000. According to Art. 1 in Law the state social standards are the social norms and regulations, established by laws, other regulatory legal acts (indices for necessary consumption of food products, non-food products and services and provision with educational, medical, housing and public utility, social cultural services) or their complex, based on which the levels of main state social guarantees are defined. According to Art. 6 in Law the basic state social standard is the minimum subsistence level, established by law, on which basis the state social guarantees and standards in spheres of public incomes, housing and public utility, household, social cultural service, health care and education are defined. The state social standards and regulations are established in order 1) to define the mechanism for implementation of social rights and state social guarantees to citizens, determined by Constitution of Ukraine; 2) to define the priorities in state social policy for provision of human needs in material benefits and services and financial resources for their implementation; 3) to define and to ground the sizes for expenditures from State Budget of Ukraine, budget of Crimean Autonomous Republic and local budgets, social funds for social protection and provision of population and maintenance of social sphere. Besides, the sizes of the main social guarantees are determined pursuant to social standards: sizes of salary and retirement pension, other kinds of social payouts and assistance. The state social standards are compulsorily considered while designing the program of economical and social development (Art. 2 in Law). Table 1 «State social standards» contains the sizes for minimum subsistence level in 2017 and 2018.

Table 1

State social standards (UAH)

	2017				2018		
	since 1.01	since 1.05	since 1.10	since 1.12	since 1.01	since 1.06	since 1.12
Minimum subsistence level (MSL) per one month for one person	1544	1624	1624	1700	1700	1777	1853
For children under 6 years	1355	1426	1426	1492	1492	1559	1626
For children from 6 to 18 years	1689	1777	1777	1860	1860	1944	2027
For able to work persons	1600	1684	1684	1762	1762	1841	1921
For persons, who lost their working capacity	1247	1312	1312	1373	1373	1435	1497
Minimum salary <i>(in % to MSL for able to work persons)</i>	3200 200,0	3200 190,0	3200 190,0	3200 181,6	3723 211,3	3723 202,2	3723 193,8
Minimum pension <i>(in % to MSL for persons, who lost working capacity)</i>	1247 100,0	1312 100,0	1452 110,7	1452 105,8	1452 105,8	1452 101,2	1497 100,0

Source: [1].

As it can be seen, the increase in minimum subsistence level and minimum pension takes place for some times during a year. However, the increase in social standards at the background of general social decay of citizens is subtle, especially for representatives of disadvantaged population.

Taking into consideration the abovementioned facts, Ukraine has all prerequisites and conditions for successful decentralization. At the same time, the real situation and delay of appropriate processes in time testifies to the fact that not the prerequisites for decentralization, fixed at the legislative level, are of larger importance in our state but their practical implementation

We think that the prerequisites for performance of successful decentralization are the improvement in managerial efficiency of local self-government (these authorities shall be capable and interested in taking decisions that in fact may be fulfilled); preparation and involvement of

highly skilled staff; cooperation between public authorities at all levels pursuant to equal conditions; provision with control over taking and fulfilling the decisions by self-governments.

Conclusions. Summing up the abovementioned, we will mention the following. The decentralization of power for Ukraine was a call of the times in the 90-ies of the XX century. And in the XXI century the decentralization of power hides the aspiration of powerful subjects to receive more power, to obtain easier access to state funds. Declaring the interests of territorial communities, as well as the aspiration for solution of problems, being common with neighboring communities as the purpose of decentralization is only the shielding what Ukrainians do not want to hear, what cannot be announced as this will contradict to course of Ukraine to European integration, will contradict to the struggle against corruption, announced in the state. Besides, we think that the steps in reformation for local level of power under crisis conditions are very untimely as this may provoke the ungovernability of certain territorial communities.

Література

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