

Exercising the powers of local self-government agencies in Ukraine: The need of implementation international standard

El ejercicio de las competencias de los organismos de autogobierno local en Ucrania: la necesidad de aplicar la norma internacional

Exercer os poderes das agências locais de autogestão na Ucrânia: A necessidade de implementação de uma norma internacional

Vladislav Leonidovich Fedorenko¹
 Oleksii Serhiiovych Dniprov²
 Ruslan Panchyshyn³
 Oleksandr Mykolaiovych Muzychuk⁴

Received: March 3rd, 2021

Accepted: April 4th, 2021

Published: July 6th, 2021

How to cite this article:

Vladislav Leonidovich Fedorenko, Oleksii Serhiiovych Dniprov, Ruslan Panchyshyn & Oleksandr Mykolaiovych Muzychuk. *Exercising the powers of local self-government agencies in Ukraine: The need of implementation international standard.*

DIXI, vol. 23, n°. 2, julio-diciembre 2021, 1-15.

DOI: <https://doi.org/10.16925/2357-5891.2021.02.04>

Research article. <https://doi.org/10.16925/2357-5891.2021.02.04>

¹ Doctor of Law, Professor, Director of the Research Center for Forensic Examination on Intellectual Property of the Ministry of Justice of Ukraine, Honored Lawyer of Ukraine.

E-mail: fedorenko900@gmail.com

ORCID: <https://orcid.org/0000-0001-5902-1226>

² Doctor of Laws, Leading Researcher of the Research Institute of Public Law.

E-mail: o.s.dniprov@gmail.com

ORCID: <https://orcid.org/0000-0002-7157-9748>

³ Candidate of Law, Associate Professor of the Kyiv Institute of Intellectual Property and Law of the National University Odessa Law Academy.

E-mail: PRI6363@gmail.com

⁴ Doctor of Jurisprudence, Professor, Honored Lawyer of Ukraine, Dean of the Faculty No. 1 of Kharkiv National University of Internal Affairs.

E-mail: o.muzychuk23@gmail.com

ORCID: <https://orcid.org/0000-0001-8367-2504>



Abstract

The notion of governance is fundamental in the management of every given society, and in order for it to function, it is necessary to place the powers in the hands of its community for its proper improvement. In striving for credible development and potential justice system, there is a need for local self-government agencies to be fully involved in the welfare of society. Therefore, this article explores the study and comparison of international experience in the field of functioning of local self-government agencies, providing proposals on its implementation in Ukraine. The international experience in the exercise of powers by local self-government agencies is analyzed; and proposals concerning its adaptation in Ukraine are given. It is noted that local self-government agencies constitute an important component of the functioning and development of any country, but their impact on ensuring the rights, freedoms and legitimate interests of the community needs improvement. The positive aspect of decentralization is also due to the shift of a significant part of administrative powers from the center to municipalities and local communities in the society, especially in its progressive part, and there is a real chance to implement those changes, at least at the local level, which are extremely necessary for a long period of time. Conversely, if the central authorities are endowed with the maximum amount of power and imperative powers, while leaving local self-government agencies a fairly narrow amount of real power, the development tendencies of such a state will mostly be negative. It was established that highly developed democracies from the very beginning of their existence were clearly aware of the importance of decentralization of governance, as well as the need to protect and maintain a high level of independence of each administrative and territorial unit, consistently ensuring their rights and interests.

Keywords: Authorities, effective functioning, legislative consolidation, legal regulation, local authorities, local self-government, regional policy, successful experience.

Resumen

La noción de gobernanza es fundamental en la gestión de toda sociedad, y para que esta funcione es necesario poner los poderes en manos de su comunidad para su adecuada mejora. En la lucha por un desarrollo creíble y un sistema de justicia potencial, es necesario que los organismos locales de autogobierno se impliquen plenamente en el bienestar de la sociedad. Por lo tanto, este artículo explora el estudio y la comparación de la experiencia internacional en el ámbito del funcionamiento de los organismos de autogobierno local, aportando propuestas sobre su aplicación en Ucrania. Se analiza la experiencia internacional en el ejercicio de las competencias de los organismos de autogobierno local y se hacen propuestas para su adaptación en Ucrania. Se señala que los organismos de autogobierno local constituyen un componente importante del funcionamiento y el desarrollo de cualquier país, pero es necesario mejorar su impacto en la garantía de los derechos, las libertades y los intereses legítimos de la comunidad. El aspecto positivo de la descentralización se debe también al desplazamiento de una parte importante de los poderes administrativos del centro a los municipios y las comunidades locales de la sociedad, especialmente en su parte progresista, y existe una posibilidad real de aplicar esos cambios, al menos a nivel local, que son sumamente necesarios durante un largo período de tiempo. Por el contrario, si se dota a las autoridades centrales de la máxima cantidad de poder y poderes imperativos, mientras se deja a los organismos locales de autogobierno una cantidad bastante reducida de poder real, las tendencias de desarrollo de dicho estado serán en su mayoría negativas. Se estableció que las democracias altamente desarrolladas desde el principio de su existencia eran claramente conscientes de la importancia de la descentralización de la gobernanza, así como de la necesidad de proteger y mantener un alto nivel de independencia de cada unidad administrativa y territorial, garantizando sistemáticamente sus derechos e intereses.

Palabras clave: Autoridades, funcionamiento efectivo, consolidación legislativa, regulación legal, autoridades locales, autogobierno local, política regional, experiencia exitosa.

Resumo

A noção de governança é fundamental na gestão de cada sociedade e, para que ela funcione, é necessário colocar os poderes nas mãos de sua comunidade para seu adequado aperfeiçoamento. Na luta por um desenvolvimento confiável e um sistema de justiça potencial, é necessário que as agências locais de autogoverno estejam plenamente envolvidas no bem-estar da sociedade. Portanto, este artigo explora o estudo e a comparação da experiência internacional no campo do funcionamento das agências locais de autogoverno, fornecendo propostas sobre sua implementação na Ucrânia. A experiência internacional no exercício de poderes pelas agências locais de autogoverno é analisada; e são apresentadas propostas relativas à sua adaptação na Ucrânia. Observa-se que as agências locais de autogoverno constituem um componente importante do funcionamento e desenvolvimento de qualquer país, mas seu impacto na garantia dos direitos, liberdades e interesses legítimos da comunidade precisa ser melhorado. O aspecto positivo da descentralização também se deve à transferência de uma parte significativa dos poderes administrativos do centro para os municípios e comunidades locais da sociedade, especialmente em sua parte progressiva, e há uma chance real de implementar essas mudanças, pelo menos em nível local, que são extremamente necessárias por um longo período de tempo. Por outro lado, se as autoridades centrais forem dotadas da máxima quantidade de poder e poderes imperativos, ao mesmo tempo em que deixam às agências locais de autogestão uma quantidade bastante estreita de poder real, as tendências de desenvolvimento de tal estado serão, em sua maioria, negativas. Foi estabelecido que as democracias altamente envolvidas desde o início de sua existência estavam claramente conscientes da importância da descentralização da governança, bem como da necessidade de proteger e manter um alto nível de independência de cada unidade administrativa e territorial, garantindo consistentemente seus direitos e interesses.

Palavras-chave: Autoridades, funcionamento eficaz, consolidação legislativa, regulamentação legal, autoridades locais, autogoverno local, política regional, experiência bem-sucedida.

I. INTRODUCTION

Many post-Soviet central governments have assigned numerous policy responsibilities to local governments, but have simultaneously constrained local autonomy in an effort to ensure that local governments pursue central objectives. Shortly after Ukraine's independence, the central government transferred ownership of state-run small enterprises to local governments, but required that local governments meet annual privatization targets set by a central agency. Some local governments have met the annual targets, while others have lagged behind.¹

The government of 1998 formed the full-fledged model of administrative (public) administration reform in Ukraine, but it did not take place due to political irresponsibility.² In general, the separation and institutional consolidation of local

1 Trevor L. Brown. *Local Autonomy versus Central Control during Transition: Explaining Local Policy Outputs in Post-Soviet Ukraine*. ENVIRONMENT AND PLANNING C: GOVERNMENT AND POLICY 6. December 2002. Pg. 889-909. <https://doi.org/10.1068/c25m>

2 N. V. Bodak. *Administrative and Legal Basis of Local Authorities Organization: Modern State and Development Prospects*. Dissertation Ph.D. Uzhhorod National University. (2017).

self-government institutions in the Constitution of Ukraine has become a significant achievement of the newest political system. However, the further formation of this institute was inconsistent, in terms of conceptual inconsistency and theoretical and methodological differences of interpretation of its main principles. The processes of reforming and amending the Constitution of 2006 in order to improve the system of local self-government in Ukraine have not led to the desired results and solutions to problems of local significance.³

Nowadays, the results of scientific and practical research conducted by a large number of reputable scholars in the field of jurisprudence and public administration clearly prove that the role of local self-government agencies is extremely high in everyday life and in the positive development of the state. Such circumstances are due to the following factors. First of all, local self-government is one of the oldest and most fundamental state and political institutions of any society. This fact is confirmed by scholars, who are historians, claiming that the ability to meet the needs of citizens with rational decisions made by competent representatives of the local community is very important for the stability of such a state, even in authoritarian states. Second, the well-being and level of development of a community directly depend on the efficiency of the activities and self-organization of local authorities in this community. Third, local authorities in the vast majority of cases are the most useful and effective in managing and achieving concrete practical results, because they are made up of people living in a community, are most aware of the local current situation and current problems, accordingly, and they will be able to address more effectively certain issues of concern to community members.

Thus, given the above-mentioned facts, it is quite rational to put forward the idea that local authorities should receive as much power as possible in the areas that address the needs of the local community represented by them.

II. METHODOLOGICAL BASIS OF THE RESEARCH

The interdisciplinary nature of the study led to the use of systematic analysis, which allowed us to consider local self-government as a single system containing a large number of elements that have the properties of self-regulation and self-reproduction. The specificity of the study necessitated the use of both general and

3 K. V. Mykhaylovska. LOCAL SELF-GOVERNMENT AS FORM OF DEMOCRACY: FEATURES OF INSTITUTIONAL MODEL IN UKRAINE. The Odessa National Academy of Law. (2009).

philosophical: Analysis, synthesis, deduction and induction, and special methods, namely institutional, historical, comparative, structural and functional, and statistical. The institution of local self-government in Ukraine and in foreign countries has been studied and analyzed in the presented work by the means of the institutional method. The application of the comparative method allowed us to correlate theoretical and methodological, socio-cultural, legal and political science approaches to the formation of model-forming systems of local self-government. The historical method opened the possibility to trace the evolution of the institution of local self-government in Ukraine. The structural and functional method has assisted to study the functions of local self-government.

L. L. Prokopenko, by studying the experience of local self-government reform in the European Union, has concluded that the analysis of the experience of local self-government reform in the European Union demonstrates that it is important to take into account both positive and negative aspects of "functional" and "organic" concepts in the process of reforming the territorial organization of power in Ukraine, and to ensure multivariate ways to improve the systems of administrative and territorial organization⁴.

A. P. Lelechenko⁵ has noted that there is a municipal reform at the present stage in Ukraine, which is an integral part of administrative reform and provides the elimination of shortcomings that significantly affect the implementation of management activities. At the same time, the full functioning of the local self-government institution in Ukraine is also hampered by financial and economic independence of territorial communities, excessive concentration of authoritative powers in central and local executive agencies, limited powers and resources of local self-government, which are also due to the lack of the relevant understanding of implementing international experience.⁶ Thus, the incompleteness of the constitutional, administrative and territorial budgetary and a large number of other reforms in Ukraine, further search for the optimal model of local self-government, force domestic science to analyze international practice of normative and legal regulation of the activities of local

4 L. L. Prokopenko. *The Experience of Reforming Local Government in the European Union Countries*. PUBLIC ADMINISTRATION ASPECTS 18. 2015. Pg. 93-101.

5 A. P. Lelechko. *International Experience of Local Self-Government Functioning: Implementation in Ukraine*. ELECTRONIC SCIENTIFIC JOURNAL DERZHAVNE UPRAVLINNYA: UDOSKONALENNYA TA ROZVYTKO 3. 2011. Available at: <http://www.dy.nayka.com.ua/?op=1&z=266>.

6 On Measures for Fulfilling the Program of State Support for the Development of Local Self-Government: Ruling of the Cabinet of ministers of Ukraine dated from March 13, 2002. No. 123. Available at: <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi>

self-government agencies and their officials, organization of the state and public control over their activities.

The need for reforms in the field of local self-government is one of the conditions for further democratic development of Ukraine. The search for ways to increase the effectiveness of control over the activities of agencies and their officials, and the settlement of other issues in this area necessitates the study of international experience.⁷ Great and wonderfully implicated and useful in the observations of the necessary standard of self-government agencies that has added laudable applause and efforts in defining the Ukrainian system in conformity with the standard put in place. There is no doubt that the self-government agencies are exercising credible efforts, but there is still some questioning as to the pose that continues to affect the democratic standard and nature of the country.

There are still some challenges faced by these agencies that have most affected the degree of effectiveness of available development of the country. It is one thing to establish laws that are in line with the country's domestic legislation in issues regarding development, but the implementation phase is another. There are always difficulties and problems when it comes to the implementation of the available laws and policies established by the international community bin, of which Ukraine is a party. We are experiencing some degree of deficiencies from those vested with the power to implement the various public policies and standards, even the so-called self-government agencies are facing difficult times meeting up with the standards put in place by international law, and this has affected the development of the country.

III. RESULTS AND DISCUSSION

The issues of increasing legitimacy of decisions made by public authorities are very urgent today. One way of creating public trust in government agencies and in local self government agencies, as it is closest to the people, is different forms of citizen participation in local decision making. Territorial public self government is considered an effective method that gives a chance to reach every citizen.⁸ Thus, it is extremely important to state that local self-government agencies, their activities and existence

7 P. M. Liubchenko & O. A. Smolar. *Foreign Experience of Control in Local Government*. STATE BUILDING AND LOCAL GOVERNMENT 29. 2015. Pg. 18-31.

8 Marina A. Chekryga. *Legal Framework of Territorial Public Self Government*. PRAVOPRIMENENIE LAW ENFORCEMENT REVIEW 3(2). 2019. Pg. 50-58. <https://doi.org/10.24147/25421514>

are one of the fundamental components of long-term and prosperous existence of society in any state.

Large-scale reforms in the field of local self-government took place in France, Germany, Great Britain, Sweden, Finland, the Netherlands, Poland, the Czech Republic, Hungary, Slovakia, and the Baltic States between the late-20th century and the early-21st century. Countries of the Arab East carried out the systemic transformation of the institutions of local authorities. One of the key factors of successful local self-government in the world is its constant reform and adaptation to new challenges, finding the best solutions to emerging problems. In order to ensure effective cooperation and parity relationships between local self-government agencies and state authorities, their mutual rights and responsibilities are established, and the forms and methods of their interaction are determined. Experiments are being conducted to introduce new types of municipalities and agencies, ways for citizens to exercise their rights and opportunities to influence the development of their territory and the state as a whole. Innovations that are not justified are rejected, the relevant structures are eliminated and we continue the search for ways to improve the state of local self-government and to bring it in line with the requirements of the present time⁹.

There are currently three main models of local self-government in European countries that have emerged during municipal reforms, namely: Anglo-Saxon, continental and mixed. The main characteristics of these models of local self-government are given in Table 1.

Table 1. Models of local self-government

Model of local self-government	Countries that use the model	Model's characteristics
Anglo-Saxon	Great Britain	High level of autonomy of local self-government, electiveness and control by the population. The absence of special state commissioners at the local level, who are entrusted with the function of control over self-government agencies. The absence of local administrations (local state authorities).
Continental	France, Italy, Spain, Belgium, the Netherlands, Poland, Bulgaria	Combination of direct state administration and local self-government. Certain hierarchy of the administration system, where local self-government is a link in comparison with the state administration. Limited autonomy of local self-government, the presence of local special state commissioners, who control local self-government agencies.

(continúa)

9 O. O. Petryshyn. *The Report on Modern Local Self-Government in Anglo-Saxon Countries*. PUBLIC ADMINISTRATION AND LOCAL GOVERNMENT 25. 2013. Pg. 197-208.

(viene)

Model of local self-government	Countries that use the model	Model's characteristics
Mixed	Germany, Austria	The elected body in some parts of local self-government can be both the part of municipal administration and the representative of state administration.

Source: Own preparation.

Special attention of the public and researchers has been recently focused on the fact that the activities of local self-government agencies (institutions and organizations) are inextricably linked to the level of decentralization in the country. This statement is based on the fact that the more power is concentrated in representatives of local authorities, the more efficiently and timely they will be able to make the necessary changes and decisions for the community. If the central agencies of state power are endowed with the maximum amount of authoritative and imperative powers, leaving a rather small amount of real power to local self-government, the development tendencies of such a state will be mostly negative. It is well known that the state cannot be governed solely by a centralized vertical power. Almost every country in one way or another consists of administrative and territorial units (regions), which, in turn, consist of several municipalities and other territorial communities. To carry out a monolithic management of the whole country from a single center in the 21st century is recognized possible, but it is an inefficient and even harmful task.¹⁰

Specialists in the field of public administration assume that only the territorial communities themselves, headed by people from these communities being elected by the residents of these communities, can effectively and timely manage the population and territories entrusted to them. That is why the current issues in the modern scientific and legal community, that in one way or another relate to local self-government, needs its active consideration and research.

European social practices demonstrate that the decentralization of power is one of the most effective tools for modernizing the system of public power, the successful implementation of which creates the necessary organizational and legal prerequisites for further democratization of power relations. The idea of decentralization of public power is implemented in some way in the vast majority of developed countries. Due to decentralization, the efficiency of public power in general in many democracies has been raised to a qualitatively new level. At the same time, the implementation of this

10 V. M. Vakulenko & M. K. Orlaty (Ed.). **GENERAL PRINCIPLES OF LOCAL SELF-GOVERNMENT IN UKRAINE.** NADU; Feniks. (2010). Pg. 201-245.

idea in Ukraine must be balanced and take into account the specific features of the development of public and state institutions that have been formed in our country.

In regard to the above-mentioned, there is an urgent need for an in-depth analysis of European practices of decentralization of power in the context of the analysis of national traditions of state formation and the latest historical stage of Ukraine's development. This is the standard put in place by the European standard when dealing with management of the community. It is great that the European standard is being put in place for other signatory countries to establish their own domestic laws and standard in accordance with the current standard. The problem here will depend on the applicability, as to whether power is fully handed over to the local population in the management of the country's activities. Do the local collectivities possess monopoly over their own activities?

The active stage of decentralization in Ukraine began in 2014, when after the events of Euromaidan the Ukrainian government launched the national program called "Decentralization". The Cabinet of Ministers of Ukraine adopted the Concept of Reforming Local Self-Government and Territorial Organization of Power in Ukraine in the same year,¹¹ which received support from all subsequent governments that came to power after the government of Arsenii Yatseniuk. For example, with the active participation of Yatseniuk's successor as the Prime-Minister, Volodymyr Hroisman took a decision to fully support the country's move towards gradual decentralization. In particular, all heads of the "post-Maidan" government identified support for decentralization reform as one of their priority goals.

Researchers of state and political processes, as well as lawyers, have not noticed active changes in the development of decentralization reform due to the change of power in Ukraine in 2019. This reform is defined by specialists and experts as pro-European or pro-Western, and means that its content and essence are similar to the models of local self-government in developed Western countries.

The lack of any changes by the new government to the planned reform of local self-government is partially due to the fact that it has a fairly broad (even unusual for domestic realities) approval among various segments of the population throughout Ukraine. The reason for the high popularity of local self-government reform in Ukraine is that it really creates a large number of extremely important conditions for the development of local communities. For example, due to the decentralization reform, most of the budgets of municipalities and territorial communities are not sent to the center,

11 On Approval of the Concept of Reforming Local Self-Government and Territorial Organization of Power in Ukraine: Order of the Cabinet of Ministers of Ukraine dated from April 1, 2014 No. 333-r. Official Bulletin of Ukraine. 2014. No. 30. Art. 831.

at the disposal of central government agencies as before, but remain at the local level. This state of affairs is extremely beneficial for the well-being of local communities, as it allows them not to wait for the minimum necessary funding, but to independently choose where and how to spend previously earned community funds.

The positive aspect of decentralization is also the fact that due to the shift of a significant part of administrative powers from the center to municipalities and local communities in society, and especially in its progressive part, there are real chances to implement those changes, at least at the local level, which are extremely necessary in the long-term. For example, if according to the populist statements of some Ukrainian statesmen, it is difficult or impossible to properly implement certain deep systemic reforms that would radically reform the entire state system and power-management mechanism, and each, even a small change related to minimizing corruption or embezzlement, is met with strong opposition, such changes not at the central level, but at the level of local communities, are a real chance to get out of a negative situation. In fact, the center of state and national administration in Ukraine is only one (located in Kyiv), and is a complex and large mechanism involving a large number of people working there. And the introduction of fundamentally new changes in this mechanism, which would be able to deprive some (if not many) representatives of this mechanism of the opportunity to get profit from illegal acts, will certainly encounter strong resistance.¹²

It is a known fact that the expected positive results are reduced with the slow implementation of reforms, and the level of approval of such reforms by citizens becomes lower and more negative. Therefore, given the impossibility to carry out all the necessary reforms from above, there was a decision about the decentralization reform. At the level of local and urban communities, in contrast to the central authorities, the possibility of rapid implementation of important changes and reforms that make the system of state, regional and local government much more effective, significantly help to reduce corruption in all spheres of public life.

According to V. A. Zubenko and O. B. Oskolkova, it was the state, administrative and territorial structure of the United States, Switzerland and the Federal Republic of Germany that made a significant contribution to the long-term prosperity of these states. In fact, the peculiarity of those countries is that they were originally a large number of separate, independent state entities. Those were either separate principalities, as in Germany and Switzerland, or separate colonies of settlers, like in the

12 A. Z. Heorhitsu. CONSTITUTIONAL LAW OF FOREIGN COUNTRIES. Aston. (2003). Pg. 181-194.

United States.¹³ Eventually, under the influence of many factors, primarily economic and political, those independent territorial units began to unite into a single state. However, the key conditions for their unification were the recognition of the significant role of each of the states or principalities and, accordingly, the recognition of the inviolability of the interests of those administrative units.

Thus, considering a specific example of the success and development of the United States, we can say that the basic conditions for the formation of this state – namely, the priority of the rights and interests of each state, the inviolability of their borders, the preservation of their symbols, and the separate and independent functioning of its own legislative and judicial system at the level of each state, led to the fact that no state was deprived of attention, was not oppressed by the central federal government in Washington, and therefore could freely and successfully develop its own economy, culture and education.¹⁴

In view of the above, one can note that the United States, Germany and Switzerland from the very beginning of their existence were clearly aware of the importance of decentralization, as well as the need to protect and maintain a high level of independence of each individual administrative and territorial unit of the state, steadily ensuring their rights and interests. We are inclined to agree with the statements of scholars about the above phenomena, because the economic, cultural and political success of those countries has proved that the country will be strong and steadily moving towards greater prosperity with the effective operation of local self-government agencies and regional authorities. However, K. Aranovskyi, a recognized expert in the field of researching international legal systems, emphasizes that domestic legislators, as well as heads of executive agencies, should not completely copy the system of public administration of the above countries. Since, the above states are federal countries that were created into a single whole by equal unification of several previously independent state entities.¹⁵

According to the history of state formation, Ukraine has no example when its certain regions formed a strong and independent state unit, and the creation of a state has never depended on agreements between its territorial units. It should be noted in this context that the proper exercise of authoritative powers by local self-government

13 V. A. Zubenko & O. B. Oskolkova (Ed.). *BUDGETARY FEDERALISM: EXPERIENCE OF THE DEVELOPED COUNTRIES*. Publishing House INION RAN. (1996). Pg. 20-65.

14 O. D. Lazor et al. *ORGANIZATION AND FUNCTIONING OF REPRESENTATIVE AGENCIES OF LOCAL SELF-GOVERNMENT IN FOREIGN COUNTRIES: SCIENTIFIC DEVELOPMENT* (O. D. Lazor, ed.). NADU. (2009). Pg. 11-37.

15 K. V. Aranovskyi. *STATE LAW OF FOREIGN COUNTRIES*. Forum-INFRA-M. (1998). Pg. 255-301.

agencies of Ukraine is possible only if the “top”, i.e. the central state authorities, implement and fulfill decentralization reform. Using the benefits of the above-mentioned reform, some and later all local communities will be able to make much-needed changes at the local level, ensuring the well-being and proper social and legal status of their own citizens. Thus, we can state that the well-being of Ukrainians depends on the interaction of central and local authorities.

Sweden, like other countries, has not avoided the need for a broad reorganization of local self-government, due to the “paradox of numbers”. There was a need to reconsider the number and size of local units, since there were more than 2,000 communes by the mid-1940s with a population of only a few hundred or thousands. Such communes were constantly short of funds and could not effectively perform their functions. During the reforms, Sweden has implemented a large number of legislative and organizational measures aimed at reducing the number of municipal units by maximizing them. As a result, the number of municipalities decreased by almost ten times – there were only 290 in the country in 2003 with an average population of 30 thousand people.¹⁶

According to I. M. Vail, a leading specialist in the field of national and regional legal systems of foreign countries, there are several “models” of the functioning of local self-government agencies among the developed countries of the West. First of all, they differ from each other by the level of independence of municipal units, as well as the presence of so-called “supervision” over the activities of local self-government by central authorities. Depending on the specific state or the type of legal system that operates in a given state, developed Western states should be divided into several unique groups, which include states similar in models of local self-government.

Thus, the above-mentioned scholar I. Vail refers to countries that have a “municipal” type of local self-government to be the most effective model. Another name for it is the “Anglo-Saxon” or “Anglo-American” type. This model of exercising authoritative powers by local self-government agencies is the most independent and autonomous model of all that takes place in the modern democratic and legal Western world. In fact, its characteristic and fundamental feature is a fairly large independence of local self-government agencies in taking decisions concerning their territorial community, or in the distribution of budget funds.

Countries with such a model of local self-government have a very strong position of local authorities and they are no less influential than central government. Such

16 Anatoliy Tkachuk. SCANDINAVIAN WAY. EXPERIENCE OF REFORMING ADMINISTRATIVE AND TERRITORIAL SYSTEM AND LOCAL SELF-GOVERNMENT IN DENMARK AND SWEDEN. *Krajina Mrij.* (2015).

influence of local authorities in developed Western countries, in contrast to Ukraine or other post-Soviet countries, is not associated with the dominance of oligarchic clans in a particular area, but is solely based on democratic and transparent expression of citizens' will.¹⁷ For example, even the positions of local prosecutor, sheriff, public attorney, etc., are elective. In other words, these positions are held by persons elected by the people, who act exclusively transparently and in the interests of their constituents, but not in the interests of the leaders to whom they would be obliged by their appointment.

Another characteristic feature of this model of local self-government is that the socially important services that operate in a particular community are subordinated to the elected heads of these municipalities, rather than to the central government. Talking precisely about this model and summarizing its description, we can say that it is certainly one that allows us to reveal the full potential of local authorities within the maximum scope, and one that most fully meets the principles and ideals of local authorities among all other models of local self-government. However, it is important to emphasize that the above model of local authorities can be powerful, transparent and effective only if the society, state institutions and political culture in a particular state are at a sufficiently high level. Unfortunately, this statement does not fully apply to Ukraine yet. There are significant dangers in giving Ukraine's current local elites significant powers, especially control over military and security agencies, that could lead to looting or disintegration of the country and the destruction of its statehood.

In our opinion, another type of local self-government is more suitable for Ukraine at this stage of its existence; namely, we talk about the combination and interaction of elected representatives of local self-government with significant local powers with prefects appointed from Kyiv and other representatives of the central government who exercise control over the activities of the former. Military and security agencies are offered to be the competence of the central authorities.

IV. CONCLUSION

Summarizing all the theses, statements and scientific views presented in this scientific work, and forming the final conclusions based on them, we can state that local self-government agencies play an extremely important role in the daily functioning of any modern state. In particular, independent local self-government agencies, which have a significant amount of administrative power within their territorial communities or municipalities represented by persons elected during a fair and transparent

17 I. M. Vail. AUSTRALIA: FEDERALISM AND SUPERIOR AUTHORITIES. Nauka. (1970). Pg. 97-230.

election process, and also demonstrate clear effectiveness in their direct activities, are an essential part of the most developed countries in the world.

The most effective local self-government agencies out of all the democratic and legal countries in the world are those that belong to the "municipal" or "Anglo-American" model. This type of exercising authoritative powers by local self-government agencies allows us to bring the efficiency of local authorities to the maximum scope. In fact, this thesis is confirmed by the extremely high level of local self-government in the United States, Canada, the United Kingdom and other countries of this type. At the same time, the introduction of a model of local self-government, which provides an excessive increase in local authority in case of the absence of a reliable state mechanism and a high political and legal culture of citizens in Ukraine, is currently out of date. Instead, we offer to introduce a model that exists in the developed countries of continental Europe. It provides an effective combination of local authorities with prefects appointed by the central government. It has been indicated that it is currently the most successful option for Ukraine.

V. REFERENCES

- Anatoliy Tkachuk. SCANDINAVIAN WAY. EXPERIENCE OF REFORMING ADMINISTRATIVE AND TERRITORIAL SYSTEM AND LOCAL SELF-GOVERNMENT IN DENMARK AND SWEDEN. Krajina Mriy. (2015).
- A. P. Lelechko. *International Experience of Local Self-Government Functioning: Implementation in Ukraine*. ELECTRONIC SCIENTIFIC JOURNAL DERZHAVNE UPRAVLINNYA: UDOSKONALENNYA TA ROZVYTOK 3. 2011. Available at: <http://www.dy.nayka.com.ua/?op=1&z=266>.
- A. Z. Heorhitsa. CONSTITUTIONAL LAW OF FOREIGN COUNTRIES. Aston. (2003). Pg. 181-194.
- K. V. Aranovskyi. STATE LAW OF FOREIGN COUNTRIES. Forum-INFRA-M. (1998). Pg. 255-301.
- I. M. Vail. AUSTRALIA: FEDERALISM AND SUPERIOR AUTHORITIES. Nauka. (1970). Pg. 97-230.
- K. V. Mykhaylovska. LOCAL SELF-GOVERNMENT AS FORM OF DEMOCRACY: FEATURES OF INSTITUTIONAL MODEL IN UKRAINE. The Odessa National Academy of Law. (2009).
- L. L. Prokopenko. *The Experience of Reforming Local Government in the European Union Countries*. PUBLIC ADMINISTRATION ASPECTS 18. 2015. Pg. 93-101.
- Marina A. Chekryga. *Legal Framework of Territorial Public Self-Government*. PRAVOPRIMENENIE LAW ENFORCEMENT REVIEW 3(2). 2019. Pg. 50-58. <https://doi.org/10.24147/2542-1514>

- N. V. Bodak. *Administrative and Legal Basis of Local Authorities Organization: Modern State and Development Prospects*. Dissertation Ph.D. Uzhhorod National University. (2017).
- O. D. Lazor et al. ORGANIZATION AND FUNCTIONING OF REPRESENTATIVE AGENCIES OF LOCAL SELF-GOVERNMENT IN FOREIGN COUNTRIES: SCIENTIFIC DEVELOPMENT (O. D. Lazor, ed.). NADU. (2009). Pg. 11-37.
- O. O. Petryshyn. *The Report on Modern Local Self-Government in Anglo-Saxon Countries*. PUBLIC ADMINISTRATION AND LOCAL GOVERNMENT 25. 2013. Pg. 197-208.
- P. M. Liubchenko & O. A. Smolar. *Foreign Experience of Control in Local Government*. STATE BUILDING AND LOCAL GOVERNMENT 29. 2015. Pg. 18-31.
- Trevor L. Brown. *Local Autonomy versus Central Control during Transition: Explaining Local Policy Outputs in Post-Soviet Ukraine*. ENVIRONMENT AND PLANNING C: GOVERNMENT AND POLICY 6. December 2002. Pg. 889-909. <https://doi.org/10.1068/c25m>
- V. M. Vakulenko & M. K. Orlaty (Ed.). GENERAL PRINCIPLES OF LOCAL SELF-GOVERNMENT IN UKRAINE. NADU; Feniks. (2010). Pg. 201-245.
- V. A. Zubenko & O. B. Oskolkova (Ed.). BUDGETARY FEDERALISM: EXPERIENCE OF THE DEVELOPED COUNTRIES. Publishing House INION RAN. (1996). Pg. 20-65.