

ДЕЦЕНТРАЛІЗАЦІЯ МІСЦЕВОГО САМОВРЯДУВАННЯ В УКРАЇНІ ЯК ПРОБЛЕМА ПОЛІТИЧНОЇ НАУКИ: ТЕОРЕТИЧНІ ОСОБЛИВОСТІ ДОСЛІДЖЕННЯ, НОРМАТИВНО-ПРАВОВА БАЗА ТА ВПЛИВ ДОСВІДУ ІНШИХ КРАЇН

У статті досліджено теоретико-методологічні та нормативні засади формування місцевої політики в Україні, розкрито концептуальні підходи щодо визначення сутності понять і еволюції місцевого самоврядування. Окрему увагу приділено окресленню нормативно-правових джерелу галузі місцевого самоврядування. Визначено процес децентралізації влади як основний чинник змін у системі органів місцевого самоврядування України. Встановлено, що Україні властивий і європейський досвід, і досвід інших країн у децентралізації публічної влади, зумовлений процесами реформування і нормативно-правової регламентації системи місцевого самоврядування різних державах ЄС. Доведено, що важливим ключем для успіху реформи децентралізації в Україні є наявна база та створення нових доктринальних напрацювань.

Ключові слова: місцеве самоврядування, децентралізація, місцева політика, об'єднана територіальна громада, Україна.

DECENTRALIZATION OF LOCAL GOVERNMENT IN UKRAINE AS A PROBLEM OF POLITICAL SCIENCE: THEORETICAL CHARACTERISTICS OF THE STUDY, NORMATIVE-LEGAL BASIS AND INFLUENCE OF OTHER COUNTRIES EXPERIENCE

The article deals with the theoretical, methodological and normative principles of the formation of local politics in Ukraine. Conceptual approaches to the definition of the essence of concepts and evolution of local government are revealed. Particular attention is paid to the development of normative and legal sources in the field of local government. The process of decentralization of power as the main factor of changes in the system of local government bodies of Ukraine is determined. It is established that Ukraine has European experience and experience of other countries in the decentralization of the public power due to the processes of reforming and regulatory legal regulation of the system of local government in different EU

states. It has been proved that an important key to the success of the decentralization reform in Ukraine is the existing base and the creation of new doctrinal developments.

Keywords: *local government, decentralization, local politics, united territorial community, Ukraine.*

The process of democratization began in Ukraine simultaneously with the emergence of statehood, thereby stipulating the need for decentralization of state power and increasing the role of local government bodies. The main role of local government is to maximize the interaction of citizens in the realization of their own civil rights and the activation of civic initiatives. Many scientists have paid attention to this problem. Thus, on the one hand, local government is an institution of civil society, an effective form of organization of people and a movement towards human solidarity¹. However, on the other hand, local government is seen as a public institution of the political system². Accordingly, there is still no single point of view on choosing a basic approach to understanding the role of local government, and this is especially noticeable in the case of political realities and political theory in Ukraine. For this reason, the given paper focuses on decentralization in the field of local governance in Ukraine as an important issue of political science, in particular through the prism of the theoretical peculiarities of its research and the regulatory framework of local politics in Ukraine.

In this context, it is important to note that local government, without being an element of state power and at the same time lacking full autonomy in relation to state power, is considered in the political system as an independent form of public power, with which the latter adapts to new social demands³. The modern concept of local government is based on the ideas and theoretical approaches that have historically been developed and revised in the light of the latest realities.

One of the first theories of local government is the theory of a free community based on the norms of French and Belgian law of the late 18th and early 19th centuries, based on the idea of the natural right of communities to independently manage the processes of solving their own problems. According to this theory, local government bodies are not public authorities, but public bodies and institutions chosen by society (or communities). Interaction between the authorities takes place in the following way: state bodies ensure that the community and its bodies do not cross the limits of their competence, and the state authorities do not interfere with the competence of the community and its bodies.

In replacement of the theory of a free community came the public theory of government, which largely rests on the provisions of the first. However, the foreground is not the natural and

¹ Chuhardinskij O., *Gromadyanske suspilstvo v Ukraïni: stanovlennya, funkcionuvannya, perspektivi rozvittku*, Wyd. Lviv 2008.

² Yevtushenko O., *Misceve samovryaduvannya – institut gromadyanskogo suspilstva ta demokratichnoyi politichnoyi sistemi*, «Ukrayinska nacionalna ideya: realiyi ta perspektivi rozvittku» 2009, nr 21.

³ Andriyash V., *Misceve samovryaduvannya v politichnyi sistemi suspilstva*, «Suchasna ukrayinska politika. Politiki i politologi pro neyi», Wyd. MDGU im. P. Mogili 2007, vol 11, s. 148-157.

inalienable right of the community, but the non-state nature of the activities of local government bodies, first of all its material nature⁴. The basic of the theory was the provision according to which society as a regulating territorial team is as independent as the state itself, especially since it arose before the state. According to A. Vasylychukova, a supporter of public theory, the autonomy of local communities is determined by the nature of the cases they are caring for and which in their nature are different from those of state administration. That is why governance (government) is a special form of organization of the population⁵.

However, early attempts to define local government as an activity that in its essence differs from the administrative activity of the state, did not succeed. Indeed, the historical situation has confirmed that the theoretical views of adherents of the model of a free community and a public government theory, which believed that local government initiatives arise and are formed «from below» and are kept solely on the consciousness and will of the population, do not correspond to reality. Due to the fact that the possibilities of the state apparatus have their own borders in resolving local issues, the state authorities need support from the population, and therefore there is a cooperation between state authorities and local government in order to jointly address specific local tasks.

This position has influenced the development of the state government theory, which was most widespread in Europe. Its main provisions were developed by the German scientists L. Stein and R. Gneist⁶. According to this theory, local government bodies should be fully subordinated to the state. They are a link of government that does not have its own rights and competences. So, according to L. Stein, the independence of local government is that they are not direct bodies of the state, but the bodies of the local community, which the state entrusts with the fulfillment of the corresponding tasks of the state administration. The supporters of the theory act only for the determined legal, organizational and financial autonomy of local government bodies in the relations of central and local authorities. Also, in state theory, the independence of local government bodies is manifested in their independence from the instructions of the central government (within their own competence), in equal relations and in the division of responsibilities for the management of state affairs between local and central authorities. The dependence of the local government on the state is manifested in the state supervision over the implementation of the state functions entrusted to them by local authorities. In addition, according to state theory, local government is primarily one of the forms of organization of public administration at the local level, being part of the state and political system as a whole. Local affairs in this context are state affairs, transferred to local government bodies that are better informed about the interests of local communities and can more fully meet them. Therefore, based on this theory, local government bodies are specific bodies of state power, organized on the principles of government. Thus, if state bodies express the will of the

⁴ Sahanenko S., *Organizatsiyno-pravoviy mekhanizm publichnogo upravlinnya na teritorialnomu rivni*, 2003.

⁵ Vasilchikov A., *Sravnitelnyy obzor russkikh i inostrannykh zemskikh i obshchestvennykh uchrezhdeniy*, SPb 1870.

⁶ Gneist R., *Istoriya gosudarstvennykh uchrezhdeniy Anglii*, Moskva 1885.

state and are completely subordinate to the management, then local government bodies have a fundamentally different status, since they are legal entities that enter into legal relations with the state and have corresponding rights and obligations.

In the XX century the community-state theory or the theory of municipal dualism, which proceeded from the dual nature of municipal activity, that is, the independent decision of local issues and the implementation of certain public functions at the local level, was extended. In parallel, the theory of social services appeared, where attention was focused on the implementation of tasks and functions of local government bodies related to the organization of public services and provision of social services⁷. The content of the theory of dualism consists in recognizing the dual nature of the activities of local government bodies. On the one hand, they are independent in internal public affairs, and on the other hand, they carry out state functions that are transferred to the central government at the local level. In accordance with the theory of municipal dualism, local government bodies, acting in their respective administrative functions and beyond the scope of local affairs, should act as an instrument of public administration. Strengthening the legal regulation of local government is increasingly integrating local authorities into the state machinery, since some of the rights are their duties, which are carried out under the control of state bodies. The use of the provisions of this theory in practice and the equalization of local affairs in the nation-state reinforce the state nature of local government bodies. Such a model is quite interesting and useful, especially for Ukraine, because: firstly, it ensures the formation of a system of local government as an institution of civil society; and secondly, it promotes the active involvement of local government bodies in the realization of the functions and tasks of public administration⁸.

The greatest influence on the practice of local government at the present stage of development of the state is the theory of social functions of the municipal government. Where local government bodies are social services that are capable of satisfying the interests of all segments of the population. As representatives of the publicly useful and non-political activities of the state, local governments are partnered with them on a mutually beneficial basis and receive financial resources in return. Accordingly, local government is directly dependent on the state, which in fact acts as the directing and controlling authority.

It is generally and theoretically clear that local government, as to some extent an independent civil society institution, is a necessary element of the «smoothing» mechanism of political discrepancies between the legislative and executive branches of government. Its further development is a prerequisite for the process of democratization of the system of governance and functioning of the political system, which forms the basis of a full-fledged development of the state. Indeed, developed local government demonstrates democratic state administration and observance of the constitutional principle of accountability Government-to-Citizen. Moreover,

⁷ Emelyanov N., *Mestnoe samoupravlenie: problemy, poiski, resheniya*, Moskva 1997.

⁸ Kirichenko L., *Narodovladchya i misceve samovryaduvannya v Ukraini*, «Pravo Ukraini» 2001, nr. 6.

based on the study of European experience, it is clear that the main goal of local government is the formation of viable territorial communities that ensure high quality of life of citizens through the proper use of local resources.

Hence, the multiplicity of theoretical approaches to local government determines the multivariability of its models. Among the main models of local government are Anglo-Saxon, Continental, Iberian, Soviet, and mixed. Anglo-Saxon or as it is called the «English» model is spread in the United Kingdom, USA, Canada, New Zealand, Australia. It is characterized by the autonomy of representative bodies of local government within the limits of their powers, as well as the lack of authorized representatives of the central government on the ground⁹. The continental or «french» model is common in Europe, Franco-speaking Africa, Latin America, and the Middle East. Its essence lies in the combination of direct government governance at the local level with local government¹⁰. The Iberian model is inherent in Spanish-speaking countries in Latin America and Brazil. Its content is that the local level management is carried out by the elected representatives of the local authorities and officials of local government appointed by the state authorities¹¹. A mixed or hybrid model operates in Austria, the Russian Federation and the Federal Republic of Germany. It combines Anglo-Saxon and Continental models¹². In the end, the Soviet model was / is inherent to the countries of the former USSR, Cuba, the People's Republic of China. Its essence is that all bodies and councils are bodies of state power, and for the model as a whole, alternative or autonomous sources of financing of all local governments are not intrinsic. Theoreticians of this model developed the idea that councils and municipalities should combine functions of local government bodies and local government functions. Due to the lack of independence, and first of all, the material and financial base, councils and their executive committees should remain the branches of the centralized control apparatus and can not serve as functions of local government¹³.

However, modern conditions put forward new tasks for local governments, for which the latter must meet the expectations of society, be representative, representing its interests. According to the concept of «good governance»¹⁴, «good» local government should be based on a combination of principles such as: broad involvement of the population (represented by business organizations, business associations and individual qualified citizens) in the process of direct resolution of local issues; the maximum possible approximation of local government

⁹ Hriplivec D., Teoretichni zasadi modelej misceвого samovryaduvannya, «Derzhavne upravlinnya: udoskonalennya ta rozvitok» 2010, nr. 9.

¹⁰ Hriplivec D., Teoretichni zasadi modelej misceвого samovryaduvannya, «Derzhavne upravlinnya: udoskonalennya ta rozvitok» 2010, nr. 9.

¹¹ Hriplivec D., Teoretichni zasadi modelej misceвого samovryaduvannya, «Derzhavne upravlinnya: udoskonalennya ta rozvitok» 2010, nr. 9.

¹² Hriplivec D., Teoretichni zasadi modelej misceвого samovryaduvannya, «Derzhavne upravlinnya: udoskonalennya ta rozvitok» 2010, nr. 9.

¹³ Hriplivec D., Teoretichni zasadi modelej misceвого samovryaduvannya, «Derzhavne upravlinnya: udoskonalennya ta rozvitok» 2010, nr. 9.

¹⁴ *The Strategy for Innovation and Good Governance at Local Level*, źródło: http://www.coe.int/t/dgap/localdemocracy/strategy_innovation/Strategy_Brochure_E.pdf.

bodies to users of services provided by these bodies to the population; formation of a mechanism of partnership between state authorities and government, based on the introduction of processes of preliminary consultations on key issues of state policy in the field of local government and regional development; a clear division of powers and competences between the territorial community and its governing bodies, local government bodies of the district and region, state authorities, etc; formation of the population system control of the quality of implementation of their responsibilities of local government bodies regarding the provision of rights and legitimate needs of citizens; control and accountability of local government bodies to state authorities in the part of implementation of the state authorities delegated by local government bodies. For any young state, including Ukraine, these principles are of particular importance. Among them, the most relevant issue is the involvement of the public in decision-making processes and, as a result, the achievement of the representativeness and transparency of public authorities.

In this regard, we turn to theoretical and methodological comprehension of the basic categories that refer to the phenomenon of local government. It should be noted that researchers typically define local government as solving local issues within the administrative-territorial units through the organization of representative bodies that are independent from the state¹⁵. In its turn, decentralization (Latin *de* - negation and *centralis* - central) is the delegation of certain powers to the local level by the central government. B. Kaminskyi considers decentralization as a managerial political system designed to make meaningful practical decisions that are geographically or organizationally outside the direct influence of the central government; as a political process involving the delegation of certain powers by the central government to the local level in order to optimize the practical solution of issues of national importance, as well as the implementation of specific regional-local programs¹⁶. As a result, local government appears as a political-legal institution, within which local affairs in grass-roots administrative-territorial units (communities) are managed through organization of local residents, with the consent and with the support of the state¹⁷. In the end, local politics should be considered as a political activity at the local level, which is different from national politics¹⁸.

As a result, this means that local government is a political subdivision of a national or regional government that performs functions that are defined as local in nature and which, in almost all cases, derive their powers from the national or regional government, but have some discretion in decision-making and, as a rule, have certain economic powers. Therefore, local policy is based not only on local events relating to national political issues, but also involves a mechanism within the local administrative unit on the election of officials and the conduct and implementation of state policy. And this is because these decisions are not necessarily

¹⁵ Pogorelyj D., Fesenko V., Filippov K., *Politologicheskij slovar-spravochnik*, Wyd. Nauka-Spektr 2008.

¹⁶ Kaminskyj B., *Slovník politologických terminů*, Wyd. Odesa 2007.

¹⁷ Kaminskyj B., *Slovník politologických terminů*, Wyd. Odesa 2007.

¹⁸ *Anglický slovník «Collins»*, zdroj: <https://www.collinsdictionary.com/dictionary/english/local-politics>.

taken unilaterally through the local political system and its institutions. Often decisions are taken jointly with governments, and local political institutions and processes are often interwoven with neighboring local and regional political systems. In this perspective, S. Bula and V. Hnatyuk outline the local level of democracy (local democracy) as a fundamental spatial sphere, in which the principles and mechanisms for organizing the political life of society in a democratic, universal form are implemented directly and effectively. This is a miniature trivial copy of world democracy at the local level¹⁹. On condition that local democracy is an important element of democracy itself, regardless of the state system. Accordingly, political stability requires the formation of stable institutions through the establishment and consolidation of local democracy.

Along with this, the definition of the phenomenon and framework of regional political actors are important. Regional actors are considered to be certain segments of local political elites and those groups that influence the adoption of political decisions in a particular region of a particular country. As stated on the official page of the EU program "Central Europe"²⁰, regional actors are all the key stakeholders who work at the regional level in a specific thematic area, regardless of their legal status, thus covering the public and the private sector. These sectors include different types of entities, such as public administrations, interest groups, non-governmental organizations, research centers, educational institutions, enterprises. According to N. Rotar, regional actors convey identity into a political agenda, and therefore they should be considered as the most active agents in the formation of regional identities²¹.

The outlined theoretical logic of interpretation of decentralization and local government is in essence also inherent in Ukrainian political science, but they are not always relevant to political realities. So, today in the Ukrainian political and legal sphere there are more than 3 thousand normative legal acts, which use the term «local government» and more than 600 current legislative acts that directly relate to the system of public authority at the regional and local levels. All of them, as well as the works of Ukrainian researchers, violate a number of issues related to the implementation of the constitutional right of communities to local government as a basis and an important component of regional development²². Nevertheless, the main problem of the current state of local and regional development in Ukraine is the lack of a clear division of powers between different branches of government at the regional and local levels, which should be defined in national legislation. Accordingly, in order to justify the delineation of functions between the center, regions and areas, it is necessary to determine the existing state

¹⁹ Bula S., Hnatyuk V., *Lokalna demokratsiya yak fundamentalna kategoriya v aktualizaciyi proyaviv institucionalno-pravovih modusiv miscevogogo samovryaduvannya: korelyaciya, formalizaciya ta shematizaciya osnovnih ponyat*, «Visnik Lvivskogo universitetu» 2015, vol 6, s. 76-88.

²⁰ *Oficijna storinka programi Yevropejskogo Soyuzu «Centralna Yevropa»*, zródlo: <http://www.central2013.eu/glossary/>.

²¹ Rotar N., *Evoluciya geostrukturi elektoralnoyi uchasti gromadyan Ukrainy. Elektoralni procesi Ukrainy v region Iahnomu vimiri: Bukovina i Zakarpattya*, Uzhgorod 2014.

²² Babinova O., *Okremi aspekti normativno-pravovogo zabezpechennya regionalnogo rozvritku v Ukraini*, «Visnik Nacionalnoyi akademiyi derzhavnogo upravlinnya pri Prezidentovi Ukrainy» 2010, nr. 3, s. 156-164.

of the intermediate administrative-territorial units of Ukraine (which is the region and district), as well as what it should be for the country in the future²³.

The adoption of the Law of Ukraine «On Local Councils of People's Deputies and Local and Regional Government» in 1992 was adopted as a ground zero for the beginning of the formation of the modern Ukrainian legal and regulatory framework for local government. Since then, the term «regional government» has been introduced in political and legal practice. The law first established the principles of local and regional government - the basis of the democratic system of power in Ukraine, the legal status of local councils of people's deputies, as well as other forms of territorial organization of citizens. It became the basis for asserting the completeness of democracy in the respective administrative territories²⁴.

In Art. 1 of the Law of Ukraine «On Local Councils of People's Deputies and Local and Regional Government» the concept of «local government in Ukraine» is defined as the territorial organization of citizens for independent decisions' making directly or through the bodies they elect, all issues of local life within the Constitution of Ukraine, laws of Ukraine and its own financial and economic base²⁵. At one time, the law defined: the legal, economic and financial foundations of local and regional government; the procedure for the formation, function and competence of village, town and city councils of people's deputies and their bodies; system, order of formation and structure of representative bodies of regional government; other forms of territorial organization of citizens. Representative bodies of regional government were regional and district councils²⁶. However, in 1997, the Law of Ukraine «On Local Councils of People's Deputies and Local and Regional Government» expired on the basis of the adoption of the Law of Ukraine «On Local Government in Ukraine» (in force as of April 25, 2018).

It is of vital importance that on June 28, 1996 the Constitution of Ukraine was adopted, which became the basis of the normative and legal basis for the formation and functioning of local government bodies. An important point in the Basic Law is the definition of the peculiarities of the state territorial structure in accordance with which local political processes take place in the future. Indeed, Art. 132 states that the territorial structure of Ukraine is based on the principles of unity and integrity of the state territory, the combination of centralization and decentralization in the exercise of state power, the balance and socio-economic development of the regions, taking into account their historical, economic, ecological, geographical and demographic features, ethnic and cultural traditions According to Art. 133 of the Constitution,

²³ Golikova T., *Derzhavne upravlinnyia teritorialnim ekonomichnim rozvitkom: teoriya i praktyka*, Wyd. NADU 2007.

²⁴ *Zakon Ukrainyini «Pro miscevi Radi narodnih deputativ ta misceve i regionalne samovryaduvannya»*, źródło: <http://zakon2.rada.gov.ua/laws/show/533-12>.

²⁵ *Zakon Ukrainyini «Pro miscevi Radi narodnih deputativ ta misceve i regionalne samovryaduvannya»*, źródło: <http://zakon2.rada.gov.ua/laws/show/533-12>.

²⁶ *Zakon Ukrainyini «Pro miscevi Radi narodnih deputativ ta misceve i regionalne samovryaduvannya»*, źródło: <http://zakon2.rada.gov.ua/laws/show/533-12>.

the system of administrative-territorial structure of Ukraine consists of the Autonomous Republic of Crimea, regions, districts, cities, districts in cities, of urban-type villages and villages²⁷.

A separate section of the Constitution of Ukraine is devoted to issues of local government. According to Art. 140, local government is the right of a territorial community - residents of a village or a voluntary association in a rural community of residents of several villages, towns and cities - to independently solve issues of local importance within the constitution and laws. Local government is carried out by the territorial community in the manner prescribed by the law, both directly and through local government bodies - rural, urban-type villages, city councils and their executive bodies²⁸. Article 141 of the Constitution defines the composition of local government bodies. Deputies elected by the residents of the village, urban-type village, city, district, region, on the basis of universal, equal, direct suffrage by secret ballot. The term of powers of a village, urban-type village, city, district, regional council, whose deputies are elected at the scheduled election, is five years. Territorial communities on the basis of universal, equal, direct suffrage shall be elected by secret ballot, respectively, village, town, city mayor, who heads the executive body of the council and presides at its meetings. The term of powers of the village, town, city mayor, elected at the scheduled election, is five years. The chairman of the district and the chairman of the regional council are elected by the relevant council and rule the executive board of the council²⁹.

Important is the issue of financial cooperation between local governments and the state. Art. 142 of the Constitution states that the state participates in the formation of revenues of local government budgets and financially supports local government. Expenditures of local government bodies, which arose as a result of decisions of state authorities, are compensated by the state. According to Art. 143, territorial communities of villages, urban-type villages, cities directly or through the bodies of local government established by them: manage the property that is in communal ownership; approve programs of socio-economic and cultural development and control their implementation; approve the budgets of the respective administrative-territorial units and control their implementation; establish local taxes and fees in accordance with the law; ensure the conduct of local referendums and the implementation of their results; set up, reorganize and liquidate communal enterprises, organizations and institutions, as well as control their activities; deal with other issues of local importance, assigned by law to their competence. Regional and district councils: approve programs of socio-economic and cultural development of the respective regions and districts and control their implementation; approve district and region budgets, which are formed from the state budget funds for their respective distribution between territorial communities or for implementation of joint projects and employ

²⁷ *Konstituciya Ukrainy: priynyata na p'yatij sesiyi Verhovnoyi Radi Ukrainy 28 chervnya 1996 r.*, źródlo: <https://zakon.rada.gov.ua/laws/show/254k/96-pp>.

²⁸ *Konstituciya Ukrainy: priynyata na p'yatij sesiyi Verhovnoyi Radi Ukrainy 28 chervnya 1996 r.*, źródlo: <https://zakon.rada.gov.ua/laws/show/254k/96-pp>.

²⁹ *Konstituciya Ukrainy: priynyata na p'yatij sesiyi Verhovnoyi Radi Ukrainy 28 chervnya 1996 r.*, źródlo: <https://zakon.rada.gov.ua/laws/show/254k/96-pp>.

funds on a contractual basis from local budgets for implementation of joint socio-economic and cultural programs, and control their implementation; deal with other issues assigned by law to their competence³⁰. In general, bodies of local government on issues related to the exercise of their powers by the executive authorities are controlled by the relevant executive authorities.

After the adoption of the Constitution of Ukraine, on May 21, 1997, the Law of Ukraine «On Local Government in Ukraine» was adopted, which is in force as of April 25, 2018. This Law defines the system and guarantees of local government in Ukraine, the principles of organization and activities, as well as the legal status and responsibility of local government bodies and officials³¹. The law guarantees that citizens should hold the right to participate in local government and defines the basic principles of local government. In addition, the law regulates a special and new notion used in the Ukrainian local politics, in particular the phenomenon of «territorial community». According to Art. 6 of the law, the primary subject of local government, the main carrier of its functions and powers is the territorial community of the village, town, city. Territorial communities in accordance with the procedure established by law may unite in one rural, urban-type village, urban territorial community, form unified local government bodies and choose, respectively, the rural, town, city mayor³².

It is established that representative bodies of local government are councils. According to Art. 10 of the Law, village, town and city councils are local government bodies representing the respective territorial communities and exercising functions and powers of local government on their behalf and in their interests. Regional and district councils are local government bodies representing the common interests of territorial communities of villages, urban-type villages, cities, within the limits of the powers determined by the law, as well as powers transferred to them by village, urban-type village, city councils³³. The executive bodies of the councils have their executive committees, departments, management. Art. 11 of the law states that the executive bodies of village, village of urban type, city, district councils are controlled and accountable to relevant councils, and on the implementation of powers delegated to them by executive authorities also under the control of the relevant executive authorities³⁴. Also, the law prescribes the possibility of voluntary association of local government bodies. According to Art. 15 of the law, bodies of local government can be united in associations of local government and their voluntary associations in order to exercise their powers more effectively, protect the rights and interests of territorial communities, which are subject to registration³⁵.

³⁰ *Konstituciya Ukrainy: priynyata na p'yatij sesiyi Verhovnoyi Radi Ukrainy 28 chervnya 1996 r.*, źródlo: <https://zakon.rada.gov.ua/laws/show/254k/96-bsp>.

³¹ *Zakon Ukrainy «Pro misecve sanovnyaduvannya v Ukrainy»*, źródlo: <http://zakon2.rada.gov.ua/laws/show/280/97-bsp>.

³² *Zakon Ukrainy «Pro misecve sanovnyaduvannya v Ukrainy»*, źródlo: <http://zakon2.rada.gov.ua/laws/show/280/97-bsp>.

³³ *Zakon Ukrainy «Pro misecve sanovnyaduvannya v Ukrainy»*, źródlo: <http://zakon2.rada.gov.ua/laws/show/280/97-bsp>.

³⁴ *Zakon Ukrainy «Pro misecve sanovnyaduvannya v Ukrainy»*, źródlo: <http://zakon2.rada.gov.ua/laws/show/280/97-bsp>.

³⁵ *Zakon Ukrainy «Pro misecve sanovnyaduvannya v Ukrainy»*, źródlo: <http://zakon2.rada.gov.ua/laws/show/280/97-bsp>.

One of the most important contemporary legal acts in the area of local policy formation in Ukraine is the Law of Ukraine «On Voluntary Association of Territorial Communities», adopted on 05.02.2015 (as now and hereafter in effect 01.01.2018), which regulates relations arising in the process of voluntary association of territorial communities of villages, villages of urban type, cities, as well as voluntary adherence to the united territorial communities³⁶.

On the other hand, decentralization processes within the framework of local government in Ukraine depend to a large extent on similar, but mostly completed processes in a number of other countries of the world. This means that global experience has a significant impact on decentralization practices in Ukraine and can be crucial in the process of reforming the regulatory framework of the local government system. Moreover, global experience may be useful for the success of the decentralization reform in Ukraine and the generation of new doctrinal developments in this direction. On this occasion, it should be noted that in different countries of the world there are two most widespread approaches to the organization of local government, in particular the approach of local autonomy and the approach of decentralization. An example of the first approach is Spain and Italy, the second is France and Poland, and so on.

For example, in Spain, according to Art. 137 of the Constitution of 1978, the basic principle of the organization of local government is the principle of autonomy, which provides that all territorial units - municipalities, provinces and autonomous territories - are endowed with autonomy when considering their own affairs. Also, the state is delegated by the functions of delegation of individual powers to autonomous territories in its composition and control over the activities of autonomous territories³⁷. Like in Italy, according to Art. 114 of the Constitution of 1947, communes, provinces, metropolitan cities and regions - as territorial units - are autonomous entities with their own status, powers and functions. When differentiating powers between all territorial units, the state is guided by the principles of subsidiarity, differentiation and proportionality³⁸.

By contrast, in France, the process of decentralization began in the 1980s. By this time, the state was rather centralized. In the period 1982-1986, the French adopted more than 40 laws related to decentralization. In addition, the processes in this direction continue today. The main objective of the reform was the modernization of the administrative system, which was implemented in accordance with the needs of the inhabitants of administrative territories, implementing relevant projects of local economic development. The key to this issue was the Law «On the rights and freedoms of communes, departments and regions», adopted in 1982. The reform continues to this day, because the last stage is considered not to be completed yet. For example, in 2003 amendments were made to the Constitution of 1958, according to which the main subject of local government is defined as territorial communities - communes, departments, regions, teams with a special status and overseas teams. It is important, therefore,

³⁶ *Zakon Ukrainyini «Pro dobrovibne ob'yednuannya teritorialnih grumad»*, izródlo: <http://zakon3.rada.gov.ua/laws/show/157-19>.

³⁷ Borislavska O., *Decentralizaciya publichnoyi vladi: dosvid yevropejskib krizym ta perspektivi Ukrainyini*. Kyiv 2012.

³⁸ Borislavska O., *Decentralizaciya publichnoyi vladi: dosvid yevropejskib krizym ta perspektivi Ukrainyini*. Kyiv 2012.

that the current legislation - the «Administrative Code» or, as it is called «the constitution of local government - completely regulates the organization and activities of local government in France³⁹, although it introduces situational or systemic amendments and changes (even in the last decade). Finally, in Poland, which is rather similar in conceptual terms to Ukraine, since 1989 administrative and administrative-territorial reforms with four stages took place. According to Art. 15 of the Constitution of 1997, the territorial structure of this state ensures the decentralization of public authority. The reforms ensured the decentralization of local public authorities and gave the territorial communities the opportunity to resolve local issues independently⁴⁰.

In this context, in particular against the background of different countries of the world, it is established that the ultimate goal of decentralization processes in Ukraine should be the creation of a safe and comfortable environment for human life by building an effective system of government. Among the strategic goals of these processes: the creation of an effective system of government; creation of conditions for dynamic, balanced development of Ukraine and its regions; providing high quality and affordable services⁴¹. Instead, among the operational objectives of such processes: the division of powers between local governments and state authorities; creation of proper material, financial and organizational conditions for the activities of local government bodies; ensuring openness and transparency in solving local issues; creation of a system of responsibility; raising the competitiveness of the regions; territorial socio-economic integration and spatial development; effective public administration in the field of regional development; state standards of service provision; the ability to provide services⁴². Finally, among the tasks of these processes: the creation of a spatial territorial basis for the activities of local government; sectoral separation of powers; formation of the structure and powers of local government bodies; formation of territorial bodies of general jurisdiction; decentralization of financial resources and fiscal decentralization; effective management of financial resources at the local level; management of land resources, natural resources and communal infrastructure; providing mechanisms for citizens to exercise constitutional rights to participate in solving local issues; creation of a system of state control over the activities of local government bodies, the system of coordination of activities of territorial executive authorities, and the system of public control over the activities of the authorities; increasing the role and functionality of cities in the further development of regions; creation of conditions for the spread of positive processes of development of cities to other territories, development of rural areas; increase of the efficiency of use of internal factors of development in the region; providing a comfortable and safe living environment for a person regardless of place

³⁹ Borislavska O., *Decentralizaciya publichnoyi vladi: dosvid yevropejskih krajini ta perspektivi Ukraini*, Kyiv 2012.

⁴⁰ Borislavska O., *Decentralizaciya publichnoyi vladi: dosvid yevropejskih krajini ta perspektivi Ukraini*, Kyiv 2012.

⁴¹ *Prezentaciya Kabinetu Ministriv Ukraini. Pasport reform: decentralizaciya vladi ta regionalnij rozvitok*, źródlo: <https://www.kmu.gov.ua/storage/app/media/reforms/57-pasport-reformi-decentralizatsiya-zagalnyy.pdf>.

⁴² *Prezentaciya Kabinetu Ministriv Ukraini. Pasport reform: decentralizaciya vladi ta regionalnij rozvitok*, źródlo: <https://www.kmu.gov.ua/storage/app/media/reforms/57-pasport-reformi-decentralizatsiya-zagalnyy.pdf>.

of residence; development of interregional cooperation; improvement of the system of strategic planning of regional development at the national and regional level; improving the quality of public administration by regional development; strengthening inter-sectoral coordination in the process of planning and implementing state regional policy; institutional support for regional development; updating state standards of service quality; development and implementation of the system of financing state standards of service quality; development of control system for providing services; provision of adequate infrastructure for the provision of services; providing professionalism in service rendering; implementation of organizational and institutional capacity⁴³.

Consequently, the main role of local politics is to maximize the interaction of citizens in the realization of their own civil rights and the activation of civic initiatives. Thus, local government, not being an element of state power and at the same time, lacking full autonomy in relation to state power, is considered in the political system as an independent form of public power, with which the latter adapts to new social demands. The issue of public involvement in decision-making processes and, as a result, the achievement of representativeness and transparency of the activities of public authorities are extremely important. Thus, local government is a political subdivision of a national or regional government that accomplish functions that are defined as local in nature and which in almost all cases derive their authority from a national or regional government but have some freedom of action in making decisions and, as a rule, have certain economic powers. Therefore, local policies are not limited to local activities relating to national political issues, but also provide for a mechanism within the local administrative unit regarding the selection of officials, as well as the execution and implementation of public policy. In this respect, for Ukraine the world and first of all European experience of the decentralization of public power in this context is undeniably relevant, which is determined by the processes of reforming and regulatory legal regulation of the system of local government. Moreover, an important key to the success of the decentralization reform in Ukraine is the existing base and the creation of new doctrinal developments in this direction in the future.

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⁴³ *Prezentaciya Kabinetu Ministriv Ukrayini. Pasport reform: decentralizaciya vladi ta regionalnij rozvitok*, źródło: <https://www.kmu.gov.ua/storage/app/media/reforms/57-pasport-reformi-decentralizatsiya-zagalniy.pdf>.

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