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## THE LAW-MAKING PROCESS IN LOCAL GOVERNMENTS

*The law-making process is a system of consistent organizational actions, interrelated procedures of adoption and changing regulations. Each type of regulations associated with competent public authorities of an appropriate level, and therefore the preparation, review and acceptance of each type of regulations have specific characteristics. The degree of complexity of the legislative process is determined by what regulations adopted or changed (laws, decrees, regulations, decisions, etc.). It should be emphasized that the effectiveness and efficiency of making regulations by local government and are, to some extent, the way to achieve the objectives and perform functions of the relevant authorities. The analysis of the issue, the definition of local law-making process and general characteristics of the stages of the legislative process, its properties and tasks will let us determine the destination of rulemaking of local government.*

**Key words:** local public authorities, legal regulations, local government, rule-making.

**Formulation of the problem.** The analysis of this issue should start from the fact that law-making is a system of consistent and coordinated steps aimed at certain results, in this case – the adoption of a legal act.

The law-making process, which is carried out by local governments and is a complex system of organizational actions (procedures) which results in the creation of a normative legal act, consists of several stages. There are different views on the number of stages of the process. Therefore it is very important to determine the number of stages of the public legislative process of local government, its objectives and purposes.

**Analysis of recent researches and publications.** Nowadays this issue was researched by such scholars as H. Zadorozhnia [11], O. Todyk [9], J. Shpak [8] and others. However, in their writings, they didn't draw attention to the unification of public local government rulemaking and specified the objectives and limits of certain stages of the process not enough.

**Formulation of the objectives.** Therefore the aim of this study is:

- 1) to distinguish the key features and properties of rulemaking stages of local public government;
- 2) to determine and analyse the stages of lawmaking process of local government;
- 3) to formulate the clearest definition of law-making stages of local government by analyzing the legislation and views of scientists.

**A presentation of the main research material.** Some authors who investigated the issues of law-making, determine three stages: preparation of the draft regulation (preliminary stage), discussion and adoption of regulation (the main stage) and the introduction of regulation in place (the final stage) [6].

Other authors define six stages of the legislative process – forecasting and planning, proposals to project development, concept development and project preparation, special and public

discussion of the project, review and adoption, publication of the act and its entry into force.

However, the conceptual works usually define five main stages:

- 1) preparatory (or «pre») stage;
- 2) the stage of draft making;
- 3) draft act (draft discussion);
- 4) the adoption of the act;
- 5) publication of the act [10].

Thus, these stages of lawmaking process were determined by the condition that the public authorities will be engaged into the legislative process. The lawmaking features of local public authorities, the status of its subjects allow to determine mandatory and optional stages of lawmaking. Taking into consideration the above-mentioned classifications, a thorough analysis of the list of stages should be done, as local public authorities inherent a kind of differentiated character, explained by the location of a political unit and local regulative rules of the matter.

Mandatory stages of legislative process performed by local governments include: preparatory «pre»-project stage, the project drafting stage, the project submission to the local government, discussion and adoption of an act; its publication.

The optional stages of law-making process of the local government includes the stage of discussion of the normative legal act by the public in the form of local initiatives or general assembly of citizens.

Despite the fact that in some cases public meetings on projects of municipal acts can be carried out according to the requirements of the law, yet this stage can be regarded as optional, as the general assembly or local initiative for projects of other municipal acts depends on the will of subjects of local government.

The following stages are realized in different ways, depending on the body performing law-making on a certain administrative and territorial unit. It is not always a clear allocation of all stages in the law-making procedure. The characteristic feature of the implementation of legislative process depends on the adopted municipal act.

The regulation of these stages of the legislative process of local government is made by the law of Ukraine «On local government in Ukraine» [5], the act of the Cabinet of Ministers of Ukraine «On approval of public hearings on consideration of public interest during the drafting of planning documentation at the local level» [4] and by the local public authority regulations .

It should be noted that the degree of regulation of relations arising in the process of local government law-making, depends on what stage of the process these relationships occur.

Some stages require detailed regulation of law-making, others did not require. The content of the preparation («pre»-project) leads to its low formality. There is no need, and possibility to regulate social relations associated with identifying and discussing the need to adopt a new regulation. This stage is characterized by fixing a minimum order of its implementation in regulatory acts.

This regulation is confirmed by the fact that the Law of Ukraine «On local government in Ukraine», as one of the grounds for registration refusal of the local community statute, involves violation of the law adoption of the statute, changes and additions to the statute [7].

In other words, the adoption of the act – this is the stage, which is particularly important and needs a clear legal regulation. All previous stages are regulated to a lesser extent. However, this does not reduce the degree of importance of the stages themselves, and does not exclude the necessity of legal regulation.

The first pre-stage of the legislative process in municipal formations covers the actions carried out by authorized subjects from the appearance of an idea about the need for a normative legal act to the appearance of its project.

The range of subjects involved in this stage is determined by the range of the subjects that have the right to submit draft regulations to local public authorities. On the first preparatory stage of legislative process, the complex of objective and subjective factors is studied (economy, traditions, social services, culture). It determines the feasibility of regulation (or changes in such regulation), certain areas of public relations, as well as the scope of the regulation. The result of this stage is to develop proposals for the drafting of a legal act [9].

A necessary condition for the implementation of the legislative process is the implementation of legislative activities on a planned basis. It involves drawing up plans for legislative work in the administrative-territorial unit. The availability of plans (programs) of the law-making activities of municipal bodies provides a comprehensive, systemic approach to legal regulation of social relations within a certain administrative-territorial unit, depending on social needs. It allows identifying the main priority areas in the development of the necessary projects.

Despite the fact that some administrative units establish the principle of legislative planning, though in most cases the legal and organizational support of the law-making stage is not paid much attention to. That's why the lawmaking activity goes in a chaotic manner: the adopted acts contradict each other, and they are economically unjustified [2].

The information on current regulations of specific questions (such as – how the planning act will fit in the current regulation) is of particular importance at the preliminary project stage. In our opinion, it is very useful to have a register of local public authority acts.

Provided that the author of an idea of a legal act can be not only a local government but also other subjects (subjects of the right of legislative initiative, it is primarily the community), a pre-project stage can be implemented in different ways and regulated by law to a different extent. In the case when the local government has an idea of the adoption of an act, we can talk about the possibility of establishing rules for the project formation, which may be embodied in municipal regulations.

In this case, the local authority may determine a responsible for drafting, involve a community and professionals into drafting, create a special committee or working group to conduct an examination of the project [1].

It should be noted that clear rules for organization and functioning of working groups (commissions) on legal acts drafting are not always set in municipal bodies. To avoid chaos, confusion in the activity of working groups, the regulations of local governments that determine the order of drafting and adoption of legal acts, it is necessary to consolidate the regulations governing the rules of working groups, to set the rules for membership changing, the possibility and the procedure of involving experts into their work.

It is possible to draft legislation by a group of citizens in the order to implement their rights and interests; it means the legal act is drafted by the same group.

One of the important steps at the pre-project stage of legislative process is the coordination of the project with interested bodies and organizations. The procedure for approval, of course, depends on the type of the adopted act.

Thus, the effectiveness of legislation adopted by the local government is largely defined by developing all questions on the previous project phase, in which it shall be determined whether the adoption of the act is within the competence of the body, whether the act agrees with the other regulations that are endowed with greater legal force, how a draft act correlated with other acts, that regulate municipal relations, whether it has internal contradictions, whether it is provided economically.

The next stage – preparing a regulation of the local government - a set of measures that set appropriate goals and is held by the established rules. At present, provided that generally the local government is regulated by Law of Ukraine «On local government in Ukraine» [5], by local

regulations, the rules governing the procedure for legal act drafting of the local government, are found mostly in acts of an administrative-territorial unit.

The Law of Ukraine «On Local Government» on the rules of municipal regulations, sets just a list of subjects eligible to make local government projects of municipal regulations. The local government regulation or officials, who examine the projects, set the procedure of municipal regulation drafting, the list and the form of the documents attached [5].

Thus, a great number of the rules governing the order of municipal regulations are found in the normative legal acts of local governments. These rules for the preparation of regulatory acts are set in the regulations of representative and executive and administrative bodies of local self-government, or in specific regulations governing the same procedure for the preparation of draft acts.

The completion of the first stage (initiation and drafting of the legal act) occurs when the subject of legislative initiative submits to a local council a project with a concept, an explanatory note, references and analytical materials due to the course.

The draft legal act, the implementation of which requires financial and economic costs, is submitted to the local council with the necessary calculations of costs and the sources of its funding. Under certain conditions, the subject of legislative initiative may withdraw its draft before its consideration by the subject of rulemaking.

The content of the second stage of the legislative process in local government bodies is a preliminary and official draft, but the goal is its coordination among the stakeholders and its direct discussion [1].

However, G. Zadorozhnia notes that to distinguish a separate stage for a project discussion in the preparatory committee is artificial and baseless, that is inappropriate since the drafting is discussed constantly and it results in a sequential improvement of the text content. As the author notes, this type of work is carried out at various stages of project preparation, and may have a different outward expression: making suggestions to the Commission by interested parties, the consideration of the draft at the Council meeting and so forth [11, p. 20-21].

The official consideration of a legal act in compliance with established procedures is held in plenary session. The procedure for discussion at the plenary session typically includes: 1) the report of project developers or initiators, questions and answers; 2) co-report (if necessary), questions to the co-reporter and his answers; 3) deputies speeches that state a certain opinion if it is annexed to the committee conclusions or suggestions to the speakers and co-speakers' reports, provided that the dissenting opinion wasn't spread among the members with the opinion of the commission; 4) speeches of the representatives of standing committees, representatives of parliamentary groups and factions who wish to make a speech; 5) deputies' speeches signed up to speak; 6) the chairperson' announcement about the end of discussion at the plenary session and the report about the number of speakers who spoke and signed up to speak; 7) the speaker's final word; 8) the chairperson's specification and announcement of proposals submitted on issues discussed and treated to a vote; 9) speeches concerning the voting procedure [8, p. 168].

In accordance with paragraph 11 of Article 59 of the Law of Ukraine «On Local Government» «acts of authorities and local government officials disclosed to the public; at the request of citizens, they may be issued a copy of the relevant acts and local government officials» [5].

Paragraph 2 of Article 15 of the Law of Ukraine «On Access to Public Information» provides that the official that owns public information has to make it public, including regulations and acts of individual action (except internal organizational), adopted by the official and part 2 of the above-mentioned law provides rules that these acts are subjected to mandatory disclosure immediately, but not later than 5 working days from the date of approval of the document. If there is an official

website this information has to be published on the website stating the date of publication and updating date [3].

**Conclusions.** Thus, the Law of Ukraine «On Access to Public Information» clearly establishes deadlines for publication of regulations and individual acts, which include decisions of local councils, and provides that such decisions have to be published, on the website immediately, but no later than 5 working days from the date of approval [3].

From the all above-mentioned we can make a conclusion that the rule-making process of local governments is a complex system of successive, separate steps, outlined by some specific limits and subjects, which are aimed at achieving specific goals - the adoption of a public regulation of the local government.

It should also be noted that the stage limits of the legislative process of local government are not very clearly singled out by legislation, because, for example, the preparation, the discussion of the regulation are contained in the normative legal acts of local governments, and not in the main law that regulates the activities of local authorities.

Thus, the rules for the preparation of regulatory acts are set in the regulations of representative and executive and administrative bodies of local self-government, or in special acts regulating the drafting procedure that, we believe, brings inconvenience in determining the boundaries of a certain stage.

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**Гуркова А. В. Процес прийняття закону в місцевих органах влади**

*Законодавчий процес – це система послідовних організаційних дій, взаємопов'язаних процедур прийняття та зміни правил. Кожен тип регулювання, пов'язаний з компетентними державними органами на належному рівні, а отже, підготовка, перевірка та прийняття кожного типу правил має специфічні характеристики. Ступінь складності законодавчого процесу визначається тим, якими правилами приймаються або змінюються (закони, укази, розпорядження, рішення тощо). Необхідно підкреслити, що ефективність прийняття регуляторних актів органами місцевого самоврядування є певною мірою способами досягнення цілей та виконання функцій відповідних органів влади. Аналіз проблеми, визначення місцевого законотворчого процесу та загальна характеристика етапів законодавчого процесу, його властивості та завдання дозволять визначити призначення правил місцевого самоврядування.*

**Ключові слова:** місцеві органи державної влади, правові норми, місцеве самоврядування, нормативні акти.

**Гуркова А. В. Гуркова А. В. Процесс принятия закона в местных органах  
власти**

*Законодательный процесс – это система последовательных организационных действий, взаимосвязанных процедур принятия и изменения правил. Каждый тип регулирования, связанный с компетентными государственными органами на должном уровне, а следовательно, подготовка, проверка и принятие каждого типа правил имеет специфические характеристики. Степень сложности законодательного процесса определяется тем, какими правилами принимаются или изменяются (законы, указы, распоряжения, решения и т.п.). Следует отметить, что эффективность принятия регуляторных актов органами местного самоуправления в определенной мере есть способами достижения целей и выполнения функций соответствующих органов власти. Анализ проблемы, определение местного законотворческого процесса и общая характеристика этапов законодательного процесса, его свойства и задачи позволяют определить назначение правил местного самоуправления.*

**Ключевые слова:** местные органы государственной власти, правовые нормы, местное самоуправление, нормативные акты.

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