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THE PREREQUISITES FOR CONSOLIDATED LOCAL COMMUNITIES IN UKRAINE

Abstract. With the formation of the new consolidated local communities, Ukraine made a historic step in the development of its state. Really, not declaratively we started the reform of local self-government, part of which is, decentralization of power, or the transfer of financial and administrative autonomy of local municipalities. However, to date, there is urgent need of formation of practical conditions for effective reform of the combined local communities.

Keywords: consolidated local community, the state, reforming the combined territorial communities.

ПЕРЕДУМОВИ ДЛЯ КОНСОЛІДОВАНИХ МІСЦЕВИХ ГРОМАД В УКРАЇНІ

Анотація. З утворенням нових консолідованих місцевих громад Україна зробила історичний крок у розвитку свого державотворення. Реально, а не декларативно у нас розпочалася реформа місцевого самоврядування, складовою частиною якої є децентралізація влади або передача фінансової та управлінської самостійності місцевим муніципалітетам. Однак на сьогодні нарізла необхідність формування практичних дієвих умов для реформування об'єднаних територіальних громад.

Ключові слова: консолідовані місцеві громади, державотворення, реформування об'єднаних територіальних громад.

ПРЕДПОСЫЛКИ ДЛЯ КОНСОЛИДИРОВАННЫХ МЕСТНЫХ ОБЩИН В УКРАИНЕ

Аннотация. С образованием новых консолидированных местных общин Украина сделала исторический шаг в развитии своего государства. Реально, а не декларативно у нас началась реформа местного самоуправления, составной частью которой есть децентрализация власти или передача финансовой и управленческой самостоятельности местным муниципалитетам. Однако на сегодняшний день существует назревшая необходимость формирования практических действенных условий для реформирования объединенных территориальных общин.

Ключевые слова: консолидированные местные общины, государства, реформирование объединенных территориальных общин.

Target setting. Its not a secret, that consolidation process in Ukraine provides local communities with more power in making decision and, at the same time, raises the level of their responsibility. However, most of the people stay relatively passive, because of the habit inherited from Soviet Union times, and wait for the state/municipality to deliver basic community services. For many, the information related with governance and service delivery is not accessible due to lack of adequate ICT capacity or lack of willingness at the level of executive wing of the city councils. Some of the municipalities have broken the norms by successfully involving citizens in decision-making process while citizens in certain areas have demonstrated active participation in development and sustainable delivery of community services. Such success cases ought to be documented and disseminated for wider adoption.

Analysis of recent research and publications. Up to January 1, 2015 in Ukraine there were such administrative units: the Autonomous Republic of Crimea, 24 oblasts, 490 rayons, 460 towns/cities, 111 city districts, 885 townships, 10,279 village councils, 28388 villages. Since 2005 there were several active attempts of administrative-territorial reform, but it has obtained its practical implementation only from 2014 due to the adoption of the Concept on the Reforming of the Local Self-Government and Territorial Arrangement of Power in Ukraine [1] (Cabinet of Ministers' Regulation № 333-p) and the Action Plan for its Implementation [2] (Cabinet of Ministers' Regulation № 591-r of

18.06.2014) by the Cabinet of Ministers of Ukraine on April 1, 2014.

The purpose of the article is the investigation of the approaches and problematic issues of the formation of new consolidated local communities in Ukraine.

The statement of basic materials. The aim of the reform of local self government is primarily to ensure its ability to solve local issues independently, using its own resources. It is about empowering local communities with greater resources and mobilization of their internal resources.

According to the Plan in 2014–2015 the amendments to the Budget [3] and Tax Code of Ukraine [4] were made, which implemented the first phase of fiscal decentralization. Thus, the changes to the Budget Code encouraged communities to consolidate and increase their ability to move through the mechanism of consolidated community budgets to direct relations with the state budget. As the result of their consolidation these communities are given the authority and resources which are the same as the cities of regional importance have. On the contrary, the municipalities that are apart of the consolidation will remain out of the process and lose their right to execute the delegated powers of local governments in villages, townships, cities of rayon importance which have not been consolidated.

In January 2015, developing the Concept, the Parliament adopted the Law of Ukraine “On voluntary consolidation of communities” [5] (№ 157-VIII of 05.02.2015 – law № 157). For its implementation the Government approved The Methods

of Self-Sufficient Territorial Communities Formation [6] (Cabinet of Ministers' Regulation № 214 from 04.08.2015 – Method). These acts determine whether the consolidation process should take place for the community to become wealthy.

Voluntary consolidation of territorial communities of villages, townships, towns/cities should be provided under the following conditions:

1) in the consolidated territorial community there can not be another local community, which has a representative body of local self-government;

2) the territory of the territorial community should be inseparable, the boundaries of the consolidated community are determined by the external jurisdiction of the consolidated communities' councils;

3) the consolidated local community must be located within the territory of the Autonomous Republic of Crimea, of one oblast;

4) while making a decision on voluntary consolidation of local communities the historical, natural, ethnic, cultural and other factors affecting the socio-economic development of the consolidated territorial community are taken into account;

5) the quality and accessibility of public services provided in the consolidated local community, can not be lower than before the consolidation.

The administrative center of the consolidated territorial community is the defined locality (village, township, town/city), which has developed its infrastructure and is usually located near the geographic center of the territory of the consolidated local community.

This process is based on seven principles:

1) the constitutionality and legality;

2) voluntary;

3) economic efficiency;

4) state support;

5) the ubiquity of local self-government;

6) transparency and openness;

7) liability.

The first principle of legality and constitutionality testifies that the process of consolidation should not violate the law, approved by the Constitution and the laws of Ukraine.

The second principle of voluntariness notes that most communities are entitled the right to decide with whom to form a consolidated community, taking into account the local mentality, historical, economic and national traditions.

However, the third principle causes the formation of communities mainly on the basis of economic efficiency, that is – on the basis of their own resources. This involves the understanding of the economic potential for the formation of revenues to the local budget.

The fourth principle guarantees state support to consolidated communities as allocation of financial resources from the state budget for the development of territories. Thus the possible sources are the State Regional Development Fund and targeted subsidies from the state budget of Ukraine.

The principle of ubiquity of local self-government strengthens the power of local councils to manage all the resources of the territory of a consolidated community.

Transparency and openness of local self government means for every citizen of the community the possibility to realise how the budget is spent, what are the procedures for public services and so on.

Getting the right to manage resources and make decisions on community development should be accompanied by the responsibility of the officials.

The Law of Ukraine “On a voluntary consolidation of local communities” Article 11 [5] prescribes the standards for the development of the document titled “The Perspective Plan for forming communities of the oblast”.

The Perspective Plan is developed by the relevant oblast state administration according to the methods of self-sufficient local communities formation and covers the entire territory of the oblast. The basis of the Perspective Plan is The Methods of Self-Sufficient Communities Formation being developed by the central executive body to form and implement the public policy on territorial arrangement of local government, administrative-territorial division system and is approved by the Cabinet of Ministers of Ukraine. The Ministry of Regional Development was identified as such central authority.

In order to ensure openness and transparency of the Perspective Plan drafting a working group composed of representatives of the Administration, relevant local self-government body, neighbourhood bodies and the public can be created.

While drafting the Perspective Plan and with the aim to involve citizens the officials authorised by the state administration provide consultations

with the representatives of local self-government and their associations and entities of entrepreneurship and their associations.

The protocol is developed as the result of consultations made. Consultations are conducted during:

- establishing a list of communities that are self-sufficient to be consolidated into the territorial community;
- establishing a list of communities, areas which are not covered by the availability of potential zones of administrative centers;
- defining the boundaries of self-sufficient of communities areas.

Consultations are conducted primarily with the representatives of local communities, the territory of which is potentially accessible for several administrative centers.

The draft Perspective Plan is approved by the relevant Oblast Council and is brought to the Cabinet of Ministers of Ukraine together with the passports of the self-sufficient communities for its approval.

In the development of the Perspective Plan the following factors are taken into account:

1) identification of potential administrative centers of regional significance and settlements with the status of regional centers and areas of availability.

2) identification of potential administrative centers of settlements (villages, towns), which previously had the status of rayon centers.

3) identification of potential administrative centers of other settlements (villages, towns, cities), the area of which is not covered by the areas of po-

tential accessibility to administrative centers.

The boundaries of the self-sufficient territorial communities area are determined by the external jurisdiction of the councils of communities that are part of it.

The boundaries of the self-sufficient communities area are defined with the following requirements:

- the area of the self-sufficient territorial communities should include the territory of communities that belong to it, and be inseparable;
- the self-sufficient of municipalities are located within the territory of the oblast and if possible within one rayon.

The territorial community, which is located at the same distance from the potential administrative centers of the self-sufficient communities can be incorporated into one self-sufficient local community, the potential administrative center of which has the most developed social and transport infrastructure, and is located within the rayon.

The Law of Ukraine “On voluntary consolidation of communities” involves successive stages of the consolidation and determines the time frame of the phases [5]. This algorithm has the following steps:

Stage I. Initiating. The initiators of the voluntary consolidation of communities of villages, towns, cities could be:

- 1) the village/town/city mayor;
- 2) at least one third of the deputies of the village, town or city council;
- 3) citizens (through local initiatives);

- 4) the neighbourhood bodies of the territory (if they represent the interests of at least one third of the members of their territorial community).

The proposal for initiating a voluntary association of local communities should, inter alia, include: 1) a list of communities, united, indicating the relevant areas; 2) determination united administrative center of the local community and its name.

The proposal on initiating the voluntary consolidation of communities can be done as:

- the order of village/town/city mayor (Article 59 of the Law of Ukraine “On Local Self-Government in Ukraine” [7]), if such consolidation is initiated by the village/town/city mayor;
- the written appeal to the village/town/city mayor from the deputies, if such consolidation is initiated by the third of the total number of the deputies of the local council;
- a written appeal to the village/town/city mayor added with the protocol of the meeting of the members of the territorial communities or community organizations.

Village/town/city Mayor provides the revision of the proposal for initiating a voluntary consolidation of local communities and public debate, which is held within 30 days after receiving a proposal. Public debate aims to involve the public to consider the proposal. The organizers of public debate determine independently the form of the meeting (conference, forum, public hearings, round-table meetings, meetings, or ra-

dio/TV debate, Internet conference, e-consultation), based on the need to involve as many interested participants and their organizational opportunities.

Public debate provides:

- 1) addressing of organizational (technical) issues;
- 2) study of the proposals (comments) on the voluntary consolidation of local communities by the organisers and the analysis of submitted proposals (remarks);
- 3) synthesis and publication of the public debate outcomes.

Stage II. Consideration of the initiative. After the public debate the proposal is submitted to the relevant council for the next session decision.

Stage III. The decision on voluntary consolidation of communities.

Stage IV. The formation of a consolidated local community.

Conclusion. The great incentive in the process of voluntary consolidation of local communities means also the additional financial resources available to the cities of oblast importance (especially 60 percent of tax on personal income) and mostly the additional authority of that category of cities.

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