EU-Ukraine Parliamentary Cooperation Committee

Working Group on Local and Regional Reform

Joint Report

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INTRODUCTION

In the context of European integration aspirations of Ukraine the matter of adaptation of Ukrainian legislation to the EU *aquis* and creation of appropriate conditions for the realization of fundamental European principles and values, namely freedom, democracy, rule of law and respect for human rights and freedoms laid down in the EU legislative framework, are of high importance. Local self-government is considered by the EU as a mechanism that ensures democratic character of the government. The European Charter of Local Self-Government states that "local authorities are one of the main foundations of any democratic regime" and that "safeguarding and reinforcement of local self-government in the different European countries is an important contribution to the construction of a Europe based on the principles of democracy and the decentralisation of power".

Ukraine's administrative structure is up to date archaic and incompatible with European standards on local and regional level. It seems essential to solve the problems of legal, organizational, financial nature and employment issue preventing Ukraine to move towards a European democratic state.

Among the problems of legal nature one can emphasize the incompleteness of current legislation and lack of regulatory legal acts which would ensure proper implementation of the Constitution of Ukraine. In addition, the lack of a clear legal distinction between the central authorities of the executive power and local self-government should be noted, leading to overlapping of powers and tugs of war for power between them. The absence of real mechanisms for citizen participation in local self-government is a painful problem for Ukraine; it leads to citizens' disbelief in real influence on the development and decision making of the government. For Ukraine as a post-soviet country, a problem of excessive centralization of power is inherent, including financial and material resources and a problem of financial equalization associated with it, which results in the lack of competition between units of local self-government. As a separate block the problems associated with low level of training and retraining of state employees appears, which are especially perceived in village and township communities.

Ukraine gradually takes over the experience of the EU Member States and adapts EU policy documents to overcome the problems of local governments. Ukraine ratified the European Charter of Local Self-Government on 15 July 1997 in the Law No. 452/97-BP and the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities on 12 February 1993. In addition, Ukraine intends to ratify the Additional Protocol to the European Charter of Local Self-Government and Protocol No. 3 to the European Outline Convention on Transfrontier Cooperation between Territorial Communities and Authorities, which Ukraine signed on 11 July 2011. Implementation of these laws remains to be seen.

In this regard the Committee on Parliamentary Cooperation between Ukraine and the EU at its Sixteenth Meeting (Brussels, 15-16 March 2011) established a Working Group on local and regional reform. In the Final Statement and Recommendations of the Sixteenth Meeting of the EU-Ukraine Parliamentary Cooperation Committee (PCC) it stated that the Committee "decides to create a Working Group to discuss the local and regional reform in Ukraine, which should report to the PCC at its next meeting".
1. STATE OF NORMATIVE AND LEGAL REGULATION OF LOCAL SELF-GOVERNMENT IN UKRAINE AND IN THE EU MEMBER STATES

1.1 NORMATIVE AND LEGAL ENVIRONMENT OF LOCAL SELF-GOVERNMENT IN UKRAINE

There is no doubt that establishing a system of economically consistent and legally capable local self-government must be based on an appropriate legislative basis.

The Constitution of Ukraine provides the following legal basis:
1) the bearer of sovereignty and the only source of power in Ukraine is the people who exercise power directly and through governmental authorities and local self-government (Article 5 of the Constitution of Ukraine);
2) local self-governance is recognized and guaranteed in Ukraine (Article 7 of the Constitution of Ukraine).
3) according to Art. 132 of the Constitution of Ukraine the principles of territorial structure of Ukraine are:
   - unity and integrity of national territory;
   - combination of centralization and decentralization in exercising government authority;
   - balance and social and economic development of regions in view of their historical, economic, environmental, geographical and demographic characteristics, ethnic and cultural traditions.

The European experience of the past decades enables to make one important conclusion: the most effective mechanism of regional development is the creation of the state legal framework for the use of internal potential of territories.

On July 15, 1997 Ukraine ratified the European Charter of Local Self-Government, which became an integral part of the legislation of Ukraine on local government. The preamble of the Charter, in particular, states that local authorities form one of the foundations of any democratic system.

The basic principles of local self-government under the Charter are the legal (Art. 2, 3, 4, 11), financial (Article 9) and organizational (Art. 6, 7, 8, 10) autonomy of local self-government authorities. This Charter binds on all the countries that have ratified it to apply these guidelines in their legislation as a guarantee of the independence of local authorities.

Regulatory definition of a local self-government appears in Art. 140 of the Constitution of Ukraine, where it is described as “the right of a territorial community – residents of a village or voluntary association into village community of residents of several villages, township or city – to resolve the issues of local importance independently within the framework of the Constitution and laws of Ukraine. Local self-governance is exercised by a territorial community in the conformity with the procedure stipulated by law, both directly and through local self-government authorities: village, township, city councils and their executive authorities.”

A more detailed definition of local self-governance is contained in the Law "On local self-government in Ukraine": "Local self-governance in Ukraine is the right guaranteed by state and the real possibility of a territorial community – residents of a village or a voluntary association in the village community of residents of several villages, township, city – independently or under the responsibility of authorities and office holders of local self-government to solve local issues within the framework of the Constitution and laws of Ukraine."

Clause 15 of Part 1 of Art. 92 of the Constitution of Ukraine guarantees that the principles of local self-governance shall be determined solely by the laws of Ukraine. Up to date the basic laws, which establish the principles of local self-governance in Ukraine, are the following:

- "On Local Self-government in Ukraine" of 21.05.1997, as amended and supplemented;
"On Elections of Deputies of the Autonomous Republic of Crimea, Local Councils and Village, Township and City Mayors" dated 7.10.2010, as amended and supplemented;

"On Service in Local Self-governments" dated 07.06.2001, as amended and supplemented;


"On Assignment of the Objects of State and Municipal Property" (March 3, 1998);

"On All-Ukrainian and Local Referendums" (July 3, 1991).

Specifics of implementation of local self-government in Kyiv according to the Constitution and laws of Ukraine is stipulated by the law "On the capital of Ukraine - Hero City Kyiv" dated 15.01.1999.

On the sub-legislative level the issues of organization and functioning of local self-government are dedicated to the provisions of a number of legal acts, in particular, the State Regional Policy Concept, approved by the President of Ukraine dated May 25, 2001 N 341/2001.

Along with the Constitution and laws of Ukraine and relevant international legal instruments, Decrees of the President of Ukraine and Resolutions of Cabinet of Ministers of Ukraine, an important and necessary element of the legal framework of local self-government are the regulations of local self-government - the decision of local self-government authorities and local referendums.

These regulations are the kind of self-regulation instruments of a territorial community, local self-government system, whereas the possibility of their adoption is expressly stipulated by the Constitution of Ukraine. Article 144 of the Constitution defines that local self-government authorities adopt decisions that are binding on their respective territory. The law "on local self-government in Ukraine" (Article 26) particularizes the rule-making powers of local self-government representative authorities.

In order to unify the conceptual approaches to local government institution, and to prevent swinging from one concept of local authorities structure to antipodal one, it would be reasonable, according to specialists, to adopt a special legislative act, namely, the Ukrainian Charter of Local Self-Government, the main regulation subject of which should be a scientific concept of local self-government development. And the result of adoption of the legislation on local self-government in Ukraine should become the Municipal Code of Ukraine. At the local level the codification should cover the municipal legal array within specific territorial communities or regions.

1.2 European legal framework

After 1945 the formerly centralized Western European countries have introduced a regional level of government with legislative rights and a right to self-government. "Local and regional autonomy has become a principle of European constitutional law, which is common to all European countries"[p.491]. The Council of Europe and the European Union as leading institutions on development of institutional law have defined a number of principles – decentralization, de-concentration, de-bureaucratization, subsidiarity and fiscal autonomy – which formed the basis of documents that establish standards of administrative and territorial structure, self-governance, and democracy in the EU.

Among the documents, first of all, we should mention the European Charter of Local Self-Government (1985), the Additional Protocol to the European Charter of Local Self-Government, a European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities (1980), the European Urban Charter (1992), the Charter for European Urbanism (1993), the European Charter on the Participation of Young People in Local and Regional Life (1994) and the draft European Charter of regional Self-Government, the European Charter of Regional Self-Government (1999), the European Outline Convention on Transfrontier Co-operation between territorial Communities or Authorities (Madrid Convention, 1980), Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning inter-territorial co-operation (2001).

European Charter of Local Self-Government is the fundamental document that is based on the principles of democracy and the decentralization of power and outlines ways of local self-government in Europe. The Preamble of the document determines local self-government authorities as "one of the main foundations of any democratic regime" able to provide «administration which is both effective and close to the citizen." That is, it is based on the principle of subsidiarity, whereby the problems of local importance are solved at the lower levels of government. The Charter, particularly Article 3, Part 1, recognizes the right of citizens to participate in public affairs management: “1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population. 2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute."

Article 9, Part 1 of the Charter recognizes the right of local self-government authorities to «adequate financial resources of their own, of which they may dispose freely within the framework of their powers"; that determines the ways to conduct the fiscal policies of local self-government.²

In addition, the EU Member States have outlined the Strategy for Innovation and Good Governance (the Strategy), adopted at the 15th session of the Conference of Minister Countries of the Council of Europe responsible for local and regional government. The strategy aims at encouragement of local authorities to commit voluntarily themselves to the citizens in order to exercise their powers and duties in accordance with the twelve principles of good democratic governance, namely:

1) Fair Conduct of Elections, Representation;
2) Responsiveness;
3) Efficiency and Effectiveness;
4) Openness and Transparency;
5) Rule of Law;
6) Ethical Conduct;
7) Competence and Capacity;
8) Innovation and Openness to Change;
9) Sustainability and Long-term Orientation;
10) Sound Financial Management;
11) Human rights, Cultural Diversity and Social Cohesion;
12) Accountability [p. 23].³

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² European Charter of Local Self-Government. Strasbourg, 15.X.1985
³ Materials to the All-Ukrainian Panel Discussion "Prospects for local government reform in Ukraine", Kyiv, 2010/
Матеріали до Загальноукраїнського круглого столу «Перспективи реформування місцевого самоврядування в Україні», К., 2010
The 16th Session of the Ministerial Conference in Utrecht recommended the Framework Criteria on Regional Democracy (dated 17.11. 2009), which should help governments to achieve balance in the allocation of functions and powers among different levels of government.

The EU Cohesion Policy relies on program-based and purposive approach. Each program is funded through the appropriate combination of the economic potential of the Structural Funds, which are the essential tools in the implementation of the EU regional policy. For the period 2007 - 2013 the EU provides the implementation of new programs JASPERS, JEREMIE and JESSICA.

**JASPERS** (Joint Assistance to Support Projects in European Regions) is intended to involve technical and financial resources of European banks (including the European Investment Bank and EBRD) for assistance in development of high-quality project proposals, aimed at enhancement of the effective use of structural funds of the EU and mobilizing additional sources of funding. Financing of such projects includes technical, economic and financial aspects, preparatory works required for project implementation at the regional level in the EU.

**JEREMIE** (Joint European Resources for Micro to Medium Enterprises) aims to provide small and medium business with microloans, debt guarantees and other forms of innovative financing, to provide with financial consultancy and engineering services including further funding of the proposed venture projects, to provide closer and harmonized cooperation of small and medium enterprises with financial intermediaries (venture funds, credit unions, technology transfer agencies, etc.).

**JESSICA** (Joint European Support for Sustainable Investment in City Areas) provides promoting long-term investment in urban areas, helps local authorities to cooperate with partners, in particular with private enterprises in order to create investment funds intended to recover the potential of cities and implementation of urban area development projects.4

We should also mention the NUTS (Nomenclature of Territorial Units for Statistical Purposes), developed by the EU. This mechanism for simplifying the implementation of the EU regional policy, adopted in 1998. NUTS consist of five levels, three of which are of the regional level and are compulsory for implementation in EU Member States. The rest is for a voluntary application.

In the EU Member States the NUTS levels correspond to number of population in the administrative and territorial units:

- **NUTS I** (major socio-economic regions): 3 000 000 - 7 000 000 inhabitants
- **NUTS II** (basic regions for the application of regional policies): 800 000 – 3 000 000 inhabitants
- **NUTS III** (small regions for specific diagnoses) – the population thresholds referred to 150 00 - 800 000 inhabitants5

Below NUTS III are Local Administrative Units (LAU), Sub-regional units under local regulation and control.

Priority funding according to the objectives of the European structural regional policy traditionally get projects funded at the level NUTS 1, 2, 3.

Any country indented to enter the EU has to reform the administrative and regional structure with regard to a clear identification of levels of NUTS.6

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2. TOPICAL ISSUES OF LOCAL AND REGIONAL DEVELOPMENT IN UKRAINE

It is estimated that until today there are more than 3000 normative legal acts in Ukraine that contain a term “local self-government”. Nearly 700 current laws are in a certain way related to the sphere of local self-governance. However, legal ensuring of local self-governance has essential drawbacks, such as:

- incompleteness of legislation in force, absence of normative legal acts that ensure the realization of constitutional norms on self-government (e.g. the Law “On the city-hero Sevastopol”);
- inefficient legal ensuring of local self-government’ financial and economic autonomies;
- absence of specific legal authority differentiation between state government bodies and local self-governance bodies [p.132];
- unregulated mechanism of delegation of powers from the state to local self-governance authorities (current legislation does not ensure qualitative differentiation between attributed powers of local self-government authorities as such and the ones delegated by the state).

Apart from the legal aspect, a systematic paradigm can be taken into account as well. The model of territorial governance in Ukraine incorporates elements of three governance models: Anglo-Saxon, Continental and German.

The above-mentioned range of problems can be specified as follows:

1. **Institutional conflict** between local self-government bodies and local state administrations, which becomes apparent in:
   - different law interpretations of local self-governance activity regulation,
   - “dragging” the powers between the above-mentioned authorities and thus their competition,
   - unjustified intervention of state executive authorities in local self-government sphere.

2. **Incompleteness of regional self-government system**:
   - despite the fact that Article 132 of the Constitution of Ukraine contains the term “region”, the Constitution makes no provision for regional self-government,
   - regional council is defined in the Constitution as a local self-government authority that represents common interests of territorial communities, villages and towns, although it has no executive body [p.14].

3. **Equivocal allocation of powers and responsibility** between levels and authorities of local self-governance (communities, districts, regions); however only the expenditure powers are regulated by Budgetary Code.

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7 Dobkin M. Reform of local government and improvement of the executive bodies of local councils as the immediate task http://www.nbu.gov.ua/e-journals/FP/2009-2/09dmjnz.pdf
8 Center for Political and Legal Reforms Swiss Agency for Development and Cooperation. Status and prospects of decentralization of public power in Ukraine, p. 54 http://despro.org.ua/img/upload/Research%20_UKR.doc
4. Unequal representation of regions and cities in regional councils (councils of oblasts) as a result of a proportional electoral system practice which had been in force till December 17, 2011 when the law “On Elections of People’s Deputies of Ukraine” was adopted.

5. Imperfection of inter-budgetary relations, the absence of guaranteed and stable resources of local budget income:

- the main resources of local budget income are nationwide revenues, particularly an individual income tax which amounts to 70% of budget revenues, and land fee;
- local taxes and levies, which are imposed by city, township and village councils, provide only 2% of local budget revenues [4].

6. Absence of effective mechanisms which guarantee active participation of citizens in local self-government execution, specifically, the imperfection of civil control mechanisms:

- underdevelopment of local ombudsman institute (local and regional ombudsmen);
- absence of civil expertise practice regarding regulatory legal acts of local self-governance bodies;
- underdevelopment of NGO expertise network and social self-organization;
- non-involvement of local and regional sectoral business councils’ in the process of civil control.

7. Personnel problem and the problem of effective administrative service provision (as of the beginning of 2009, there were 100,582 officials employed in local self-government bodies, and only 66.2% of them had a complete high education. Annually 20% of all officials are rotated; it implies the establishment of an advanced personnel training, professional development and retraining system).

The crisis of personnel policy in local self-governance bodies shows up as an ineffective training system for deputies and officials, professional development and retraining.

The deficient mechanism of officials’ responsibility before community creates favourable conditions for the abuse of powers and ineffective resources distribution, leads to hidden privatization, non-transparent land resources distribution and exploitation, causing widespread corruption in the system of local self-government bodies.

Evaluating the level of public support for local self-government authorities in November 2010, Razumkov Center published the following statistics: 14.9% of respondents approve their actions, 42.5% support certain actions, and 42.6% are not in favour of local self-governance activities or cannot give a definite answer.\(^9\)

According to general public, the principal barriers for local self-governance development are: a high level of state power centralization; dependence of local self-government on political process; politicization of local councils and deficiency of electoral system. In public’s opinion, it is necessary to reform the system of local self-government to make it effective.

The Concept of local self-government reform, approved in the Decree of the Cabinet of Ministers of Ukraine of dated June 2009, adds the following problematic aspects of local self-government:

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• economic inability of territorial communities and local self-governance bodies to execute their proper and delegated authority;

• lack of territorial budget resources for community infrastructure investments;

• public infrastructure crisis, a critical state of electric grid, water supply, sewerage systems and housing facilities;

• isolation of local self-governance authorities from the public, corporatization and non-transparent actions, ineffective use of community property and land resources, corruption and paternalism in relations with the public;

• underdeveloped sector of independent social initiative and social economy, particularly the production of social, cultural, informational and other services for the public; non-use of this sector resource potential for local development;

• underdeveloped forms of direct democracy, the absence of civil direct participation in solving local issues;

• social disintegration of territorial communities, citizens’ disability to act unanimously in order to assess their rights and interests in cooperation with local self-governance authorities and to achieve public goals in community development;

• complicated demographic situation in most of territorial communities, quantitative and qualitative degradation of human resources.  

Apart from the above-mentioned problems of local self-governance, the Concept summarizes institutional challenges, such as:

• exceeding centralization of powers, financial and other resources;

• ineffective state regional policy, which does not stimulate community to self-development and local initiative manifestation;

Inefficient administrative and territorial system, which was inherited from the USSR, but not brought in compliance with the Constitution of Ukraine, is one of the key-factors of local self-governance problems in Ukraine.

The Concept of reform of administrative and territorial system in Ukraine highlights the following aspects of inefficiency:

• absence of common classification of administrative and territorial units, irrelevant procedure and criteria of their categorization;

• critical disproportion of resource provision, social and economic development scale in administrative and territorial units of the same level;

• conflict between the status and resource potential of administrative and territorial units;

• administrative and territorial units contain units of the same level;

• administrative and territorial units do not comply with the EU recommendations regarding administrative and territorial units in EU;

• exceeding fragmentation of basic (more than 12 thousand) and regional (more than 500) administrative and territorial units, which decreases the efficiency of providing respective administrative services and control.  

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10 The concept of reform of the administrative and territorial system of Ukraine (Концепція реформи адміністративно-територіального устрою України – http://www.despro.org.ua/img/.../concept_ter_ustr.doc)

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According to the authors of the Concept, the above-mentioned drawbacks of Ukrainian administrative and territorial system cause powers of overlapping of public authorities at different levels as well as inconsistency in the scope of competence between local self-government and local executive officials. Moreover, inefficiency of administrative and territorial system leads to complications in such areas as land use causing uncertainty of jurisdiction and landownership. The problem of ineffective resource distribution regarding public authorities supply at different levels of administrative and territorial units is closely related to uneven provision of state-financed services for the public.

The overcomplicated system of administrative relations generates low investment attractiveness of certain territorial units, as well as rural budget infrastructure decay, which results in accelerating migration of rural population.

11 The concept of reform of the administrative and territorial system of Ukraine (Концепція реформи адміністративно-територіального устрою України – http://www.despro.org.ua/img/.../concept_ter_ustr.doc)
3. EUROPEAN LOCAL AND REGIONAL REFORM EXPERIENCE

Last century witnessed several attempts to systematically reform the administrative and territorial system of Ukraine, to regulate budget, engage the Ukrainians in managing local issues. However, solely institutional attempts to reform the system failed. Within the framework of the integration process with the EU, it’s becoming important for Ukraine to study and learn from the experience of the EU Member States on how to carry out local and regional reforms. Many experts think that the Polish way of administrative and regional reform enactment could become a good pattern for Ukraine. Poland’s experience in the sphere of “decentralization of national power, regionalism and local self-governance could provide a very good practical example for Ukraine.12

3.1 Experience of the Republic of Poland

The change of the political system in 1989 became a turning point for the countries of Central and Eastern Europe and for Poland in particular. It was at that time that Poland along with a number of other post-communist countries embarked on the way of transition from centrally planned to market economy and also from a centralized to a decentralized system of government.

J. Regulski, one of the founding fathers of the decentralization reform in Poland, pointed out that the greatest challenge for the reformers from Central and Eastern Europe at that time was to overcome five monopolies:

- First and foremost, political monopoly of the ruling party;
- Secondly, monopoly on state power;
- Thirdly, monopoly on state property;
- Fourthly, financial monopoly;
- Fifthly, public administration monopoly.13

Administrative and territorial reforms in Poland were implemented in two stages. At the first stage (1990), the local self-government was restored by establishment of a basic territorial unit – gmina (municipality) that gained legal capacity, assumed social tasks of local self-government and acquired property of their own.14 Thus, the local authorities gained a greater autonomy and took quite a stiff political stance. Territorial structure of the country, however, remained unchanged.

The Polish Constitution adopted in 1997, more specifically its Article 16, enshrined the principle of decentralization of the local government.15 The Constitution struck a balance between centralization and decentralization in the system of public administration. As a result, an administrative model based on two subsystems – public administration (grounded on the principle of centralization) and local self-governance (grounded on the principle of decentralization) was introduced.16

At the second stage of the reform (1999) self-governance was implemented at the higher level, i.e. public authorities of powiat (county) and voivodeship (region) appeared alongside the existing gmina

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12 Administrative reform in Ukraine through the prism of Poland’s experience (Д. Марчук Адмінреформа в Україні через призму досвіду Польщі http://glavcom.ua/articles/2695.html)
14 Bocharov S. Administrative reform in Poland as a step towards integration into the European Union. – С.В. Бочаров Адміністративна реформа в Польщі як крок до інтеграції в Європейський Союз
15 Konstytucja Rzeczpospolitej Polskiej Art. 16.
16 Bocharov S. Administrative reform in Poland as a step towards integration into the European Union.
public authorities. Simultaneously, a new territorial division was introduced in order to provide the citizens of all the administrative units with the specialized public services.\textsuperscript{17}

Administrative and territorial reforms in Poland resulted in the establishment of a three-level system of territorial division in 1999; it embraces, according to the Constitution of 1997, the following administrative and territorial units: \textit{gmina} (basic level), \textit{powiat} (intermediate level) and \textit{wojewodship} (regional level). Today the territory of the Republic of Poland is partitioned into 2479 gminas, 379 powiats (65 of which enjoy the status of towns) and 16 voivodeships. The objective of this reform was to “create strong regions able to compete with the regions of other states on the accession of Poland to the European Union”.\textsuperscript{18} To compare, before the administrative reform of the year 1999 there were 49 voivodeships, 2489 gminas, including 318 urban gminas, 1604 rural gminas and 567 urban-rural gminas.\textsuperscript{19} A fragmentation like that was ensued from the administrative and territorial reform of 1975 intended to make the centralized governance possible.

Nowadays every division unit is at the same time a unit of local self-governance with a corresponding scope of powers. Their allocation (see Table 1) testifies the fact that at the level of gmina and powiat the basic needs of the society are met and administrative services are provided, whereas at the level of voivodeship the matters of regional development are settled.

\begin{table}[h]
\begin{tabular}{|l|l|l|l|}
\hline
\textbf{} & \textbf{Municipality (gmina)} & \textbf{County (powiat)} & \textbf{Region (voivodeship)} \\
\hline
\textbf{Strategic and physical planning} & \begin{itemize}
\item Plans for local development
\item Granting building permits
\end{itemize} & \begin{itemize}
\item Plans for county’s development
\item Building inspection
\end{itemize} & \begin{itemize}
\item Strategic regional planning (including international economic relations and regional promotion)
\item Regional development contracts with central government
\end{itemize} \\
\hline
\textbf{Roads and communal infrastructure} & \begin{itemize}
\item Water supply and sewerage
\item Waste collection and disposal
\item Street cleaning
\item Street lighting
\item Parks and green areas conservation
\item Central heating
\item Local roads
\item Public transport
\end{itemize} & \item County road network & \begin{itemize}
\item Regional work network
\item Water management
\end{itemize} \\
\hline
\textbf{Public order and safety} & \item Voluntary fire brigades & \item Public order and security (police)
\item Civil defence & \\
\hline
\textbf{Education} & \item Kindergartens and & \item Secondary school & \\
\hline
\end{tabular}
\end{table}

\textsuperscript{17} Bocharov S. Administrative reform in Poland as a step towards integration into the European Union. \url{http://www.experts.in.ua/baza/analitic/index.php?ELEMENT_ID=45468}
\textsuperscript{18} \url{http://ukrpolgerm.com/infopage.php5?lang=ukr&id=1}
\textsuperscript{19} \url{http://ukrpolgerm.com/infopage.php5?lang=ukr&id=1}
<table>
<thead>
<tr>
<th>Units of territorial self-government perform their tasks with the help of regulatory bodies (council of gmina, council of powiat, voivodeship sejm) and executive bodies (municipal board, county board, voivodeship board). Regulatory bodies and their deputies are elected by universal, equal, direct suffrage and by secret ballot. Executive bodies are appointed and recalled by councils (gmina, powiat) or by assembly (voivodeship) of relevant units of territorial self-government.</th>
</tr>
</thead>
<tbody>
<tr>
<td>20 Ustawa z dnia 8 marca 1990r. o samorządzie gminnym, Ustawa z dnia 5 czerwca 1998 r. o samorządzie powiatowym, Ustawa z dnia 5 czerwca 1998 r. o samorządzie województwa <a href="http://isap.sejm.gov.pl">http://isap.sejm.gov.pl</a></td>
</tr>
<tr>
<td>21 Ustawa z dnia 8 marca 1990r. o samorządzie gminnym <a href="http://isap.sejm.gov.pl">http://isap.sejm.gov.pl</a></td>
</tr>
</tbody>
</table>

### Health
- Public health and sanitary services
- Public health (regional hospitals)

### Welfare
- Social services such as services for seniors, social welfare benefits
- Unemployment measures
- Care for homeless people

### Housing
- Construction of social housing
- Management of housing and utilities complex in municipality

### Culture, sport and leisure
- Local libraries, theatres, cultural institutions
- Regional cultural facilities

### Miscellaneous
- Civil registry offices
- Land registry
- Environmental protection

At the municipal and county level self-governance is the sole form of state governance. At the regional level there exists a binary system – elective self-governance, on the one hand, and governor (voivode) that is appointed by the Prime Minister, on the other hand.

Apart from decentralization principle, reform of the year 1999 embodied one of the main principles of the EU, i.e. the subsidiarity principle provided by the law on local self-governance (Ustawa o samorządzie gminnym) according to which “every resident of a corresponding gmina becomes its member, irrespective of the level of their participation”. The law stipulates that an individual can’t resign membership in a community but, at the same time, the community cannot exclude the individual from its membership. That stimulates proactive citizen participation in the process of self-governance and gives them leverage for decision-making.

The outcome of the reform was the process of budgetary decentralization unfolding as a result of which every unit of self-governement acquired a different level of fiscal autonomy. As a result, gmina enjoys a greater fiscal autonomy than powiat or voivodeship. The major sources of gminas’ budgetary revenues are their own incomings, taxes and grants from central government and share in revenues collected by central government.

The revenues of powiats (counties) are limited to a greater extent as taxes are not collected at this level. Counties are financed predominantly by grants (grants for education and roads), their budget is also financed by the sale or lease of property and 1% charge of income taxes. There’s also a system
of social subsidies provided for delegated powers and powers of authority of a county in the social sphere.\(^{23}\)

Revenues of the municipal level make up 1.5% of the income tax, collected on the territory of a given voivodeship and 0.5% of the tax on income of enterprises. Regions as well as counties receive general subsidies on education, roads and on long-term projects.\(^{24}\)

To stimulate the development of the regions, to bridge the gap between the wealthier and the less well-off regions, Polish government applies *stimulation approach* defined in the Law “On Principles of Regional Development Support” aimed to boost economy and to raise their competitiveness. This approach intends to put an end to the policy of regional equalization. Hence, every region has to care about its competitiveness advancement both on national and international arena as that is a prerequisite for its development. Every region can also receive government assistance depending on its potential\(^{25}\), but decentralization-competitive pattern based on regional and horizontal programmes and recognition of territorial and regional development policy remain the main one.

**Conclusions:**

The administrative and territorial reform in Poland yielded positive improvements:

- First of all, public authorities’ responsibility for the development of subordinate territories has grown;
- Secondly, citizens started to take an active part in public life of their territorial unit;
- Thirdly, the scope of tasks of the local council that was earlier restricted to administration expanded significantly. After the reform local councils were forced to resort to strategic governance and to set out their long-term plans. Local governance started to take the real needs of the society into consideration; it consulted with and reported back to the society. Thereby, relations pattern between authorities and a citizen transformed from the pattern “superior- citizen” into the pattern “service provider- client”;
- Fourthly, the local community began to control not only the final results but also to regularly monitor the way the tasks are carried out;
- Fifthly, public authorities attained greater autonomy, gained independence in investment decision-making and secured greater freedom in finding funds for development (loans, bond issuance etc.).\(^{28}\)

3.2 Experience of the Czech Republic

Administrative reform in the Czech Republic as well as in Poland was implemented in two stages and lasted approximately ten years. During its first phase in 1990 the structure of the administrative and territorial division was reformed and as a result of it the then Czechoslovak Republic refused the three-tier system (municipality, district, region) for the benefit of a historically more acceptable two-tier...
system (municipality, region). Along with territorial changes a re-distribution of powers of every self-governed unit and order of their formation took place.27

Article 7 of the Czech Constitution dedicated to local self-governance realizes four main requirements of the Council of Europe and the European Union regarding decentralized and regionalized country, i.e. decentralization, deconcentration, subsidiarity and fiscal autonomy. In accordance with the Constitution, municipality was recognized as the main unit of self-governance. Moreover, its status of a public corporation, the right to elect municipal government and to conduct local referenda, to have its own property, to form and administer budgetary funds, socio-economic, cultural and municipal needs of communities are recognized. 28

Before the change of 1989 the Czech system could be characterized as a system where heads of the elected local councils and heads of administration appointed by the government coexisted together. After 1990 it was replaced by a system in which every local self-government has its own administration accountable not to the central government but to the elected council. State administration inspects the works of the local government bodies but its power is restricted to examination of the legitimacy of the local resolutions.

In the course of decentralization municipalities gained budgetary independence. The main revenue sources of local budget became taxes and government grants (special grants and subsidies), local taxes and charges.

At the second stage of the reform (approximately 1997-2000) the constitutional act 347/1997 (Article 99) established 14 self-governed regions, i.e. the second tier of self-government in the Czech Republic. Regions of the Czech Republic represent the so-called “connected model of public administration” which implies that the functions of both the state administration and the regional self-government are performed at the regional level.29

A multi-tier system of governance, set up as a result of the reform, made it possible for the Czech Republic to benefit from the structural EU policy and also to influence the process of the EU regional policy execution through the Committee of Regions.30

3.3 Experience of the Republic of Hungary

The process of local self-governance restructuring after Hungary’s withdrawal from the Warsaw Pact lasted ten years and like in case of the Polish Republic and the Czech Republic and a number of other post-communist countries occurred in two stages.

Act No. LXV of 1990 on Local governance marked the beginning of the first stage of the reform that laid down the foundations for democracy establishment and political system reformation. The current system of local democracy of Hungary is based, first and foremost, on the principles of the Hungarian tradition and also on the provisions of the European Charter of Local Self-government. This system started to function adequately when Act No. LXIV of 1990 on Local elections and their implementation came into force.31

The rights of municipalities were recognized by the Constitution and the Act on local self-governments. According to Chapter 9 (Article 41 and Article 42) of the Constitution of Hungary the

27 Salo I. Administrative and territorial reform in Poland and the Czech Republic И./ Сало Административно-территориальна реформа в Польщі і Чехії http://blog.i.ua/community/666/188717/
29 Ing. David Spacek Public Administration Reform p.8/24
30 Salo I. Administrative and territorial reform in Poland and the Czech Republic И./ Сало Административно-территориальна реформа в Польщі і Чехії http://blog.i.ua/community/666/188717/
31 Istvan Temesi Local Government in Hungary, p. 347
communities of the voters in towns, the capital Budapest and its districts and also in counties are vested with the right to local self-government. Self-governance, in its turn, is understood as an autonomous and democratic management of local public affairs that applies to voters and is realized by the power in the interest of a local community.

The right of voters to participate in local self-governance according to the Act on Local Self-governments might be exercised by means of representative body elections, conducting of local referendum, exercising public initiative or public hearings.

The territorial division of Hungary was also fixed by the Constitution at the first stage of the reform. The territory of the country was partitioned into counties and municipalities (cities, villages, capital that is divided into districts). At the same time local governments were constituted.

There are no hierarchical relations between the regional and the municipal level. The rights of all local governments are equal. The difference between them lies in the administrative powers delegated to them. So, municipalities are in charge of local public services, whereas counties perform a subsidiary role, carrying out tasks that municipalities are not capable to do, as they lack sufficient resources, and considering regional matters.

The responsibilities of municipalities are as follows:

- Provision of drinking water;
- Provision of kindergarten and primary education;
- Provision of basic health services;
- Provision of public lighting;
- Provision of welfare needs, social assistance;
- Monitoring of the condition of local public roads and their maintenance;
- Upkeep of public cemeteries;
- Enforcement of the rights of national and ethnic minorities;
- Environmental protection etc.

Regional self-government doesn’t have a clearly determined scope of authority but in practice its major function is to maintain institutions providing public services, such as hospitals, secondary schools, museums, libraries, theatres etc.

Implementation of the second stage of the reform became possible thanks to the amendments that were introduced by the Act on Local Self-Governments (Act No LXIII of 1994). The most significant among them were:

- Introduction of direct mayor elections;
- Clear delineation of responsibilities of the government representatives;
- Establishment of the county’ level as a separate tier of local self-governance, enhancement of its status and implementation of direct elections of local representatives;
- Guarantee of the right of citizens to participate in local self-governance etc.

32 http://www.valasztas.hu/en/ovi/200/200_0.html
36 Gabor Balas, Jozsef Hegedus. Local Self-government and Decentralization in Hungary, p.41 http://www.fes.hr/E-books/pdf/Local%20Sel%20Government/03.pdf
The main sources of revenues and expenditures of local self-governance are enumerated in Chapter 9 of the Act on Local Self-government that bears the title “Economic resources of local self-governance”. Local self-governance bodies have their own assets and have the right to distribute their expenditures and to make an estimate of costs. The four main elements of the budget receipts are independent revenues, shared revenues, normative grants from central budget and capital investment financing.37

To recapitulate, the radical changes that occurred in the countries of Central and Eastern Europe which let them embark on the track of democratic development were:

- Abolishment of outdated bureaucratic structures;
- Simplification and unification of taxation system and other forms of budget revenues as well as procedures of direct taxation, deductions and subventions;
- Deconcentration and decentralization processes;
- Reform of the state service according to the Western European model; introduction of culture of servicing [p. 476].38
- Introduction of “e-governance” system in order to enhance effectiveness and transparency of the authority, to control it and to simplify the procedure of services and information obtainment.

With regards to the afore-mentioned, the following recommendations for local self-government reform in Ukraine should be made. Administrative and territorial, legal, institutional, financial and economic, personnel reforms should be implemented simultaneously.

**Administrative and Territorial Reform**

1. Improvement of the territorial division at the basic and middle levels (communities, districts).
2. Reduction of the number of administrative units, as well as providing their delimitation in accordance with uniform criteria.
3. Establishment of new, larger territorial units capable of ensuring performance of public powers provided by law.

**Administrative Legal Reform**

1. Constitutional enshrinement of territorial reform matters:
   - status differentiation of village, town and city at the basic level;
   - definition of the territorial structure of Ukraine;
   - establishment of statuses and hierarchy of administrative units, as well as the order of their establishment, reorganization and liquidation;
2. Adoption of a Law on Territorial Structure of Ukraine, which should define the term “territorial administrative unit” and contain the following:
   - a comprehensive list of powers and responsibility of the authority established within a territorial unit;
   - provision of a local authority with resources necessary to exercise their powers stipulated by the law;
   - territorial integrity;
   - prohibition for an administrative and territorial unit to comprise other units of the same level with the same powers.

**Institutional Reform**

Principles of institutional reform of local self-government:

1. Clear determination of competence and powers of local authorities, determination of the ways to exercise the mentioned powers within legislation based on:
   - a list of government and public services, their classification;
   - a list of services to be provided for money withheld from budget and on a paid basis;
   - allocation of responsibilities of local executive officials and local self-government authorities in providing government and public services.

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39 Dobkin M. Reform of local government and improvement of the executive bodies of local councils as the immediate task
2. Creating an effective management system at major (oblast) and middle (region) levels establishing true representative body of local self-government with their own executive bodies:

- establishment of a legislative body (council) and executive committee, headed by the Mayor to be elected at a general meeting.

3. Government administrative supervision for the execution of public tasks by a community shall be performed solely in terms of legitimacy of decisions.

4. Determination of the competences of local governments, which means attribution to their competence of the following matters:

- local finances;
- economic development of settlements;
- municipal property management;
- communal land use and use of local natural resources;
- planning and development of settlements;
- care for local roads and their construction;
- sewerage, electricity, gas, water supply, lighting for settlements, housing;
- local public transport;
- improvement of parks and gardens;
- maintenance of cemeteries and funeral services;
- preschool institutions, primary and secondary schools;
- municipal medical care;
- municipal institutions of culture, physical education, sport and tourism;
- employment and organization of public works;
- environmental protection (some issues), fire safety and consumer rights.

Pursuant to recommendations, local authorities should undertake the following powers:

- state property management;
- coordination of local agencies of government departments and other central executive bodies;
- issue of licenses and permits required by law;
- audit of the financial activities of local governments within legislative framework.

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5. Fostering of community participation in local affairs management by means of:
   
   • assistance units of self-governments (elders, city quarter councils), providing the relevant legislative framework, as well as ensuring the integration of mentioned units into decision making process;
   
   • cooperation of local governments with self-organization organs of residents, neighbourhood associations and NGOs in the form of delegation of public tasks to non-public entities.

**Financial and Economic Reform**

Performing of local self-government functions is possible only through ensuring adequate and proper financial and economic basis of their activity. To allocate the responsibilities of local executive officials and local self-government authorities the following measures shall be done:

1. separation of local budgets from the State budget of Ukraine so that they shall be independent in collecting local taxes (land value tax, real estate tax of natural persons and legal entities, income tax, etc.)
2. granting communities the right to participate in the forming of sources of local revenues;
3. recognizing not only the local authorities' title to real and movable property but also their proprietary rights for land and other natural resources;
4. development of mechanisms for public financial support to local government by introducing investment subsidies for territorial communities with the use of state budget and extra budgetary funds;
5. establishment of a single regional institution aimed at monitoring of local governments financial decisions for their legality.

**Personnel Reform**

An advanced training, professional development and retraining system of local authorities should be established for effective implementation of local and regional reform.