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DECENTRALIZATION OF POWER IN UKRAINE AND EUROPE: SECURITY AND FINANCE ISSUES

Abstract. The decentralization is not a new phenomenon for Ukraine. The processes, directed to establish and to develop the local self-government according to European model, going away from complete subordination of local power to the state power during Soviet times, were activated since the state acquired the independence.

The purpose of article is to study how the processes for decentralization of power, finances, etc. are run under conditions of financial, economical and political crisis that take place in Ukraine and countries of Europe.

The local self-government and decentralization of power shall ideally have the connection with the territorial community. The decentralization of power in Ukraine is not the aspiration of territorial community but the attempt to remove someone from power, to divide the power, being received, between other people.

It is necessary to establish the regulatory background for development of local self-government, as well as to work out and to implement the norms for division of receipts from general state taxes and duties into practice.

In our opinion, the abovementioned vision is not only the understanding of decentralization but the understanding of local self-government itself. When the processes, related to development of rights at territorial communities or other territorial formations, start in the totalitarian country, where the real local self-government is absent, in this case one can speak about decentralization of power. That is to say, the state transfers the part of its functions to the communities. If the local self-government already exists, if the budget legislation assigns the corresponding receipts (assigned, own, regulating incomes) to the budgets of different levels, if the will is implemented in communities (through elections, referendums), so, this means that the power is already decentralized.

There is a need for identified potential threats from such positive at first sight processes. Because there is the possibility to receive the additional financial resources directly from state budget (budget and fiscal decentralization). Namely this is the main purpose to establish the united territorial communities. And here exclusively the populism slogans are that the purpose of such newly established communities is to approach the services to population, availability of residents in territorial community to solution of issues of local importance, etc. From the other hand, decentralization – this is what the ones who want more power are covered, because the power is money.

Keywords: decentralization, power, economy, budget, finance, security.

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ДЕЦЕНТРАЛІЗАЦІЯ ВЛАДИ В УКРАЇНІ ТА ЄВРОПІ: ПРОБЛЕМИ БЕЗПЕКИ І ФІНАНСІВ

Анотація. Децентралізація не є новим явищем для України. Процеси, спрямовані на встановлення та розвиток місцевого самоврядування за європейською моделлю, відходячи від повного підпорядкування місцевої влади державній владі за радянських часів, активізувалися з моменту проголошення державою незалежності.

Мета статті — вивчити, як відбуваються процеси децентралізації влади, фінансів тощо в умовах фінансової, економічної та політичної кризи, що мають місце в Україні та країнах Європи.

Місцеве самоврядування і децентралізація влади в ідеалі мають зв'язок із територіальною громадою. Децентралізація влади в Україні — це не прагнення територіальної громади, а спроба усунути когось від влади, розділити владу, яку отримують, між іншими людьми. Необхідно встановити нормативно-правову базу розвитку місцевого самоврядування, а також розробити і впровадити на практиці норми розподілу надходжень від загальнодержавних податків і зборів. І це не лише розуміння децентралізації, а розуміння самої суті місцевого самоврядування.

Коли процеси, пов'язані з розвитком прав у територіальних громадах чи інших територіальних утвореннях, розпочинаються в тоталітарній країні, де відсутнє реальне місцеве самоврядування, то в цьому разі можна говорити про децентралізацію влади. Тобто держава передає частину своїх функцій громадам. Якщо місцеве самоврядування вже існує, якщо законодавство про бюджет закріплює відповідні надходження (закріплені, власні, регулятивні доходи) за бюджетами різних рівнів, якщо воля реалізується в громадах (через вибори, референдуми), то це означає, що влада вже є децентралізованою.

На сьогодні існує потреба у виявленні потенційних загроз від таких позитивних на перший погляд процесів. Тому що є можливість отримувати додаткові фінансові ресурси безпосередньо з державного бюджету (бюджетна і бюджетна децентралізація). А саме це головна мета створення об'єднаних територіальних громад. І тут виключно лозунги популізму полягають у тому, що метою таких новостворених громад є наближення послуг до населення, доступність мешканців територіальної громади до вирішення питань місцевого значення тощо. З другого боку, децентралізація — це те, чим прикриваються ті, хто хоче більше влади, адже влада — це гроші.

Ключові слова: децентралізація, влада, економіка, бюджет, фінанси, безпека.

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ДЕЦЕНТРАЛИЗАЦИЯ ВЛАСТИ В УКРАИНЕ И ЕВРОПЕ: ПРОБЛЕМЫ БЕЗОПАСНОСТИ И ФИНАНСОВ

Аннотация. Рассматриваются проблемы децентрализации власти в Украине и некоторых зарубежных странах. Подчеркивается, что необходимо установить реальную почву для развития местного самоуправления, а также разрабатывать и внедрять нормы распределения поступлений от общегосударственных налогов и сборов на практике. По нашему мнению, вышеприведенное видение заключается не только в понимании децентрализации, но и в понимании самого местного самоуправления. Когда процессы, связанные с развитием прав в территориальных общинах или иных территориальных образованиях, начинаются в тоталитарной стране, где реальное местное самоуправление

отсутствует, в этом случае можно говорить о децентрализации власти. В государстве, где уже признается и действует местное самоуправление, происходят процессы его реформирования, а не децентрализация власти.

Ключевые слова: децентрализация, власть, экономика, бюджет, финансы, безопасность.

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1. Introduction. The decentralization is not a new phenomenon for Ukraine. The processes, directed to establish and to develop the local self-government according to European model, going away from complete subordination of local power to the state power during Soviet times, were activated since the state acquired the independence.

The essential statement is that «the world now faces the new phenomena, as well as collisions, related to aggravation of inter-civilization confrontation. Thus, the process for formation of breakthrough synthetic paradigm for global model of political and economical power is gathering pace» [1, 9]. That is to say, the society and the power are updated, and these changes are interdependent; one cannot ignore that the global changes concern all spheres of public life.

2. Brief Literature Review. The problems that are studied in the article have been and now are in the public eye of famous scientists. In particular, we mean the papers by such scientists as D. Wellisch [2], Ž. Oplotnik (2012) [3], James Edwin Kee [4], A. Rodríguez-Pose, A. Krøijer (2009) [5], Edward M. Gramlich (1993) [6], W.E. Oates (2005) [7], Ch.M. Tiebout (1961) [8], Roy W. Bahl (2018) [9], B.M. Danylyshyn (2016) [10], M.I. Karlin (2016) [11], V.H. Demianyshyn (2008) [12], M.I. Derkach (2011) [13], O.V. Dluhopolskyi (2011) [14], N.V. Matsedonska (2017) [15], Jonas Frank Jorge Martinez-Vazquez [16]. Despite the significant number of scientific publications, which study the issues of decentralization in its various manifestations, many issues are left unsolved, some of them appear in the new conditions (we mean the crisis situations). Taking this into consideration, the study of corresponding foreign, in particular, European experience is opportune in Ukrainian realities for decentralization of power.

3. The purpose of article is to study how the processes for decentralization of power, finances, etc. are run under conditions of financial, economical and political crisis that take place in Ukraine and countries of Europe.

4. Main results of research. The start of important reformation processes in Ukraine and European states, directed to implement the changes in administrative territorial system, was set by European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities 1980 [17], which entered into force in 1981 (Ukraine joined to Convention in 1993), and European Charter of Local Self-Government 1985. The reforms anticipated the implementation of principle for subsidiary and function of communities (we mean the clear division of powers between state authorities and local self-government for efficient adoption and effective implementation of managerial decisions; hereby the efficiency and effectiveness shall be financial, economical, time, etc.). European Outline Convention also defined the transfrontier cooperation as «any joint actions, directed to reinforce and to deepen the good-neighborly relations between territorial communities or authorities that are under jurisdiction of two or some Contractual Parties, and to conclude any necessary agreements or to achieve arrangements within this purpose. The transfrontier cooperation is implemented within the competence of territorial communities or authorities, defined by inner legislation. The limits and the character of such competence are not changed by this Convention».

We should also mention European Convention on the Participation of Foreigners in Public Life at Local Level (1992), European Urban Charter (1992), European Charter on the Participation of Young People in Local and Regional Life (1992), Framework Convention for the Protection of National Minorities (1995) as the ones that became the logical continuation of decentralization processes in Europe in general and in Ukraine in particular.

The issues about insufficient autonomy of local self-government, need in decentralization and de-concentration of power, etc. started appearing more and more often after adoption of the

Constitution of Ukraine and Law of Ukraine «About Local Self-Government in Ukraine». Hereby, frequently, speaking about such needs, politicians and officials of local self-government even do not think which consequences all that may involve.

Modern Ukrainian power met with the fact that the regions, which with their cultural (sometimes even un-cultural) roots were economically inclined to other states, started demanding the autonomy, began the struggle for so-called «federalization» of Unitarian state. It is notable that such regions (we mean East and South of Ukraine) wish to have the independence from Ukraine or to be a subject within federative system, or to be a subject of another state, hereby various payments, expenses for service of current problems in regions should be financed from the funds of State Budget of Ukraine, and the receipts to local budgets shall be made according to legislation of another state. It is rather illogical aspiration, however, it takes place.

The local self-government and decentralization of power shall ideally have the connection with the territorial community and the decentralization of power in Ukraine is not the aspiration of territorial community but the attempt to remove someone from power, to divide the power, being received, between other people. So, we have the obvious reverse of the medal: the aspiration to receive more rights, related to local self-government, under the vesture of concept «decentralization of power» has caused to armed confrontation between representatives of state power and those ones, who seeks to take the part of this power, to receive the control over money, natural resources, mineral resources and, finally, over people. So to say, the decentralization of power in Ukraine in fact has nothing in common with extension of any rights at territorial community, in particular, financial rights.

Probably, the citizens in those territories, which may lose the status of district center during decentralization process, have the risk to become incapable in financial, economical and social terms. The communities, which territories would not be the regional centers already, have the risk to lose the part of their members, residents, as it is natural that a modern human needs the development, and our state still since the times when the Soviet power ruled paid more attention (in financial terms) to development of larger regions and the lesser ones were often financed due to residual principle. Hence, there is the insufficient development of modern cultural entertainment sphere, educational and medical industry, etc.

All countries, being developed, and the countries with transitional economics implement their own policy in direction of fiscal decentralization in order to change the correlation between degree of influence from central state authorities and local self-governments on macro economical situation [18, p. 144—145].

Famous American economist from California University Ch. Tiebout in his article, dd. 1961, «An Economic Theory of Fiscal Decentralization» proved that namely the fiscal decentralization enables the management bodies receiving the autonomy as to financing and provision of population with public goods and services. The scientist stated that the public expenditures pursuant to fiscal autonomy of management bodies would correspond to individual tastes of consumers according to their needs [8, p. 94].

The governments in countries of Central and Eastern Europe were especially actualized in issues of fiscal decentralization in the XX century.

During the times of the USSR such resources were somewhat limited and moreover there were the difficulties with their use as all processes, related to formation and use of financial and budget resources at local levels, were defined and controlled «from the top-down». The real practical financial independence and self-support of local councils was out of question.

Central and Eastern Europe is particularly interesting for this topic because when the communism collapsed in 1989, these countries embarked on a transition from highly-centralized, planned systems to more decentralized market-dominated economies. They have faced many challenges in meeting the necessary requirements to ensure a successful implementation of fiscal decentralization reforms. The persistent macroeconomic instability, the legacy of forty years of central planning, and the presence of weak legal systems represented the important hurdles for the design of effective decentralized systems. The result has been the implementation of fiscal

decentralization processes often criticized for their lack of transparency and of a clear division of powers between the different levels of government. While throughout the region subnational governments have been given greater fiscal responsibilities, in many cases their own revenue sources are still limited. This dependence on revenue either through shared taxes or money transfers from the central government reduces the incentive for local governments to act in an economically efficient manner [5, p. 2; 24].

Thus, first of all, it is necessary to establish the regulatory background for development of local self-government, as well as to work out and to implement the norms for division of receipts from general state taxes and duties into practice.

The issues and problems of local self-government were actualized after Ukraine received the independence since beginning of the 90-ies in the XX century. The laws, designed to regulate various relations in the sphere of local self-government, were developed and adopted. The financial legal relations did not remain uninvolved. And this is not surprising as the guaranty for right of territorial community on its own to solve the issues of local importance is the available financial resources.

The literature provides a general definition of the term fiscal decentralization, which is that it represents the transfer of competencies, responsibilities and financial resources from the central (state) level to the lower levels of government. Its original purpose is to establish efficient financing of local self-government, the implementation of the competencies of decentralized units and functioning with the aim of satisfying the needs of the local population... Recent literature in the field of fiscal decentralization as compared to traditional or the first generation of literature does not only focus on the general definition of the term fiscal decentralization, but attributes an important role to the citizens. Citizens can through their cooperation in the discharge of public affairs importantly influence decision-making relating to the environment, in which they live [3, p. 42—44].

If we address to researches by European scientists, so, the corresponding legal literature describes the content of fiscal decentralization through the following three aspects:

- Decentralization of expenditures — that is provision of local self-government with financial resources for fulfillment of tasks and functions;
- Decentralization of incomes — assigning the list of own incomes to local self-government, being sufficient for proper and good quality fulfillment of tasks and functions, established for appropriate level of local self-government, and the right on its own to establish their sizes;
- Procedural and organizational independence — right on its own, under responsibility of authorities, officials of local self-government, to form, to approve, to fulfill the financial plans, estimates, budgets, to provide with reporting and control, etc. [10, p. 29].

In our opinion, the abovementioned vision is not only the understanding of decentralization but the understanding of local self-government itself. When the processes, related to development of rights at territorial communities or other territorial formations, start in the totalitarian country, where the real local self-government is absent, in this case one can speak about decentralization of power. That is to say, the state transfers the part of its functions to the communities. If the local self-government already exists, if the budget legislation assigns the corresponding receipts (assigned, own, regulating incomes) to the budgets of different levels, if the will is implemented in communities (through elections, referendums), so, this means that the power is already decentralized.

Paradox: the state seeks to minimize the transfer of budget funds to communities (so to say, there are own and assigned incomes of local budgets, so, let the self-governments establish the conditions for their growth; and the inter-budget transfers shall be the additional source of incomes); at the same time the Government very actively speaks in support for establishment of united territorial communities and hereby supports the direct inter-budget relations between the state and such communities. There is the impression that someone has the great desire to give the part of inter-budget transfers to communities, leaving behind other authorities, budgets, etc.

The specialists mention that it is necessary to do the following to perform the real fiscal decentralization:

- To establish the conditions for activation of population to self-fulfillment through establishment of own business, in particular, in priority spheres of economics in Ukraine (agriculture, tourism, IT technologies, etc.) that will assist to increase in volume of receipts as budgets of all levels;
- Along with delegation of powers by state authorities and responsibility to local self-governments, to provide with real observance of provisions in Budget Code of Ukraine as to conformity of delegated rights to make the expenditures in volume of financial resources, designed for this, in the form of general state taxes and duties, assigned to the corresponding budgets, or their part, as well as transfers from State Budget of Ukraine;
- To improve the procedure for settlement of basis (reverse) subsidy with possibility to correct it under impartial circumstances;
- To revise the composition of incomes in local budgets in order to increase own receipts and to decrease the transfers from state budget [19, p. 84].

In general, the abovementioned conditions are considered at legislative level in our state to some or other extent. And despite this fact, today most local self-governments, deputies of city councils often mention the problems, with which the territorial communities face in connection with insufficient financing. That is to say, the first cause for all problems is the insufficiency of financial resources. The changes, directed to reinforce the local budget, to increase the receipts from taxes and duties, have been introduced into Budget and Tax Codes. In our opinion, it is necessary to seek for the problems of local self-government in local self-governments themselves, where there is no feeling of responsibility, that only verbally support the local initiatives but in fact they support only the initiatives, which bring the benefit personally to them (such benefit is determinative in accepting and support of initiatives, or in refusal).

We agree that fiscal decentralization is only one factor of decentralization which may not lead to devolution and the empowerment of local citizens and institutions if not accompanied by administrative and, above all, political decentralization; fiscal autonomy with limited accountability may just simply empower local elites to pursue their own particular interests, often at the expense of the common good [5, p. 28].

To our high regret, the issues about responsibility of public authorities in Ukraine remain unsolved for a long time. We have written earlier that «the peculiarity of public authorities as subjects of budget legal relations is that they in some relations may perform the functions of budget control authorities (that is to control the budget process and to apply the appropriate sanctions to infringers), and in other relations — to be the subjects, to which the measures of budget responsibility are applied (of course, in case of any infringement in budget legislation). Although here (in such their double status), there are many procedural and political problems. For example, if the Court of Auditors or Ministry of Finances of Ukraine submits the incomplete or not entirely correct reporting data to Verkhovna Rada of Ukraine, so, usually not an authority but concrete persons are brought to responsibility. If Verkhovna Rada of Ukraine pursuant to such reports takes some decisions, so, as a public authority it bears no budget or any other legal responsibility as it is impossible to prove the fact that the entire legislative body knowingly took the false calculations. Only cautionary measures as to relevant Committee are possible or the persons, whose fault would be proved, are brought to responsibility. Thus, it is very difficult (almost unreal) to prove the collegial infringements by public authorities» [20, p. 301—312]. That is a collegial body is not brought to collegial (collective) responsibility.

Conclusions. Why national leaders are «in favor of» decentralization? The answer unites the financial and powerful components. Thus, there is the possibility to receive the additional financial resources directly from state budget (budget and fiscal decentralization). Namely this is the main purpose to establish the united territorial communities. And here exclusively the populism slogans are that the purpose of such newly established communities is to approach the services to population, availability of residents in territorial community to solution of issues of local

importance, etc. In Ukraine it is necessary to carry out very carefully the processes connected with decentralization. There is a need for identified potential threats from such positive at first sight processes.

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