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5.4 International experience in managing territorial communities and prospects for Ukraine

1. Analysis of international experience in the development of territorial communities

In every country, the way of organizing decentralized authority is connected with its history, political and managerial culture, economy and social experience. This makes it impossible to develop and implement one common and universal model. However, there are some similarities in approaches to solving a number of problems. First of all, it concerns the increased administrative role of the regional level. It has taken a long time for territorial parts (regions, states, lands) in federal or highly regionalized countries to resolve the issue of internal structure [171].

The experience of consolidation of municipal units has both positive and negative consequences. Firstly, it is impossible to apply a single quantitative criterion to all settlements (for example, a predetermined number of residents). Secondly, if the municipalities were united into a new administrative unit due to a command or administrative order (for example, in France), the reform was usually unsuccessful and does not give the expected results. Success was achieved due to the voluntary unification of local authorities (even if the state still initiated it), the use of the experience of municipal cooperation, monitoring of public opinion in order to identify preferences and take into account historical, cultural, economic ties of the population.

France made an attempt to implement forced territorial reform which involved the unification of communes (municipalities) created hundreds of years ago. This idea of the French government was not perceived by the population and it turned into cooperation of territorial communities.

A significant number of countries eliminate small and non-effective territorial formations. Concerning France, it remains quite conservative at this point. There are currently 36,568 communes in the country. However, about 80% of them have a population of less than 1000 inhabitants.

It is quite possible that due to the small size of the territory and a small number of the population, these territories cannot create conditions for performing all the

necessary duties [172]. To solve the problem of financial support and functioning of governing institutions, 2 approaches are used: 1) cooperation between communes to solve certain common problems; 2) uniting several small communes into a single one which is more powerful and financially capable to solve the functioning of all local government services.

In order to determine the new boundaries of new municipal territories, various criteria were taken into account, but all of them had a comprehensive, quantitative and qualitative principle. Thus, in Sweden, municipalities that carried out cooperation with each other were united around cities, taking into account the level of area development between settlements. In Denmark, a special research was carried out to determine the municipal boundaries, the results of which revealed areas that were naturally formed basing on different common spheres of activity. As a result, more than 40 trade zones, 123 centers of labor resources, etc. were identified. Many indicators were taken into account, among them even such as mail and press delivery. Therefore, a map of the interrelation and interdependences of territories was created. A detailed analysis of the "scale effect" was also carried out in order to optimize the way of providing the population with various services. Basing on the collected data, the legislation was changed, there were the proposals to create districts, which was discussed in municipalities and approved by the central government only after reaching an agreement with the areas to be united.

Today in Ukraine you can observe the reverse process. 136 rayons (districts) were created out of 480 existing rayons. The justification for this amount is not confirmed and explained to the population, the calculation relied only on the Polish experience of such a reform.

It should be said that Poland has had more than 300-year experience in the functioning of local government. Despite the positive results of decentralization in Poland, one of the negative aspects was failing in considering the difference between rural and urban povits (municipalities), in particular, the differences in resources that these locally governing units can use. For a significant number of under-developed regions of Poland, decentralization meant increasing the gap between them and the

most successful Polish regions and the whole country. Regions which turned out to be without the state support after the administrative reform began to develop worse [173].

Unlike Poland, where the successful implementation of the decentralization reform was largely due to a single "reform headquarter" which included the parliament and government representatives, experts and non-governmental organizations, Ukraine has a large number of reform center situated in the country center that poorly coordinate their activities with the regional level authorities.

Territorial planning requires the unification of territories and the search for optimal options for their fair division (Table 1).

Table 1.

Number of local authorities

<i>Country name</i>	<i>local</i>	<i>intermediate</i>	<i>Regional</i>
France	36 786	101	13
Germany	11 252	295	16
United Kingdom	433		4
Poland	2 497	380	16
Ukraine	10 885	488	25

In Finland, two decades ago, an attempt was made to significantly reduce the number of municipalities by command and administrative order. In the end, as a result of political changes, the volunteering principle won. At the same time, the state encourages the municipalities unification by providing additional subsidies. Administrative and territorial reform in Finland is not carried out in an administrative and command way, but due to the economic stimulation of local authorities to make voluntary decisions regarding the expediency of such an association.

In Italy, financial motivation is expected for the unification of communes with the population of less than five thousand inhabitants, or for their joining the larger communes. A similar experience was also introduced in Estonia.

In Latvia, taking several stages, both methods of consolidation - stimulation of voluntary unification and administrative consolidation - were used. Since the beginning

of the reorganization, four years have been spared for the creation of voluntary unifications supported financially by providing a single subsidy (from the state budget) in the amount of 1 to 5% of the total budget of the municipality. A year after, administrative consolidation of the remaining municipalities was carried out.

Another problem that appears during the decentralization reform is the choice between equality and hierarchy in relations between different regional and local institutions. In the French constitution, for example, there is the principle that no local authority can exercise power or supervise other authorities, but this is mostly a formality than it works in practice.

Instead, in Germany, the hierarchy of relations between different levels of government is a priority: legislative acts approved by the land institutions are mandatory for local authorities located in their territories. Regional authorities have a high level of power: local authorities have the right to supervise the activities of the lower ones. Both the first and the second approaches have their drawbacks.

In the French system of formal equality, this does not correspond to the real practice of subordination between different levels of government, also it does not contribute to the development of cooperation between regions, departments or municipalities, and does not exclude the competition between them, which leads to unclear responsibilities.

The hierarchy chosen by Germany contributes to the re-concentration of power at the land level and contradicts the formal imperatives of decentralization. However, despite the national experience, the idea of ensuring a regional level of responsibility to maintain the unity of the system of local authorities finds more and more supporters [174].

Clear distinction of responsibilities between the state and various local and regional authorities is the main requirement for the effective public administration. The European Charter of Local Authorities states that "the main responsibilities and functions of local institutions are determined by the Constitution or the law.

However, this statement does not exclude providing responsibilities and obligations for local institutions for specific purposes in accordance with the law. Local

authorities within the law have all rights to resolve any issue that is not removed from their competence and which is not appointed to any other institution. The Charter also emphasizes that the responsibilities provided for local authorities should be full and exclusive. They cannot be terminated or restricted by other central or regional authorities unless required by law.

The rule of clear competence is implemented in Belgium, where each power branch is in charge of its specific responsibilities: issues related to sovereignty are in the prerogative of federal institutions; cultural issues, health care and social welfare belong to the competence of communities, and the issues of housing and communal services are partly belong to the competence of regions. Clear competence means no interference from the federal government. The principle of common power was introduced in federal Germany. According to the Constitution, the Parliament of the Federation has exclusive responsibilities concerning certain spheres; lands are deprived of the power to approve of legislation in several areas [174].

Other types of reforms that have been carried out in Europe during the last decades of the twentieth century can be defined as organizational reforms. They took place mostly under the great influence of the central government and intended to change the internal structure of territorial units. They included the following points: strengthening the role of mayors and elected councils; making the process of reaching decisions more open, public and democratic; increasing the role of the public in decision-making; applying the obligatory "rational" planning methods; changes in the local staff, changes in local rules for organizing the activities of authorities, etc.

The measures meant to promote more active participation of local institutions in the social and political life of states and transform them into reliable leaders of public policy (Italy, Great Britain, etc.) [174]. Therefore, the European countries have carried out and are still working on providing the society with information about the decentralization reform, its positive aspects and the results of implementation. For example, in France there is a National Commission for Public Debate, which is responsible for providing citizens with information and taking into account their wishes in the process of making certain decisions.

The study of the experience of foreign countries enables us to define the following ways to improve the decentralization reform in Ukraine:

- 1) separation of responsibilities, rights and obligations of different levels of government in accordance with the principles of a democratic state, making achieving a balance of interests in the system of public relations possible;
- 2) development and implementation of regional policy aimed at ensuring equal local and regional development;
- 3) ensuring the implementation of the principle of subsidy as a way to overcome conflicts of interest between local executive authorities and local institutions;
- 4) ensuring the growth of territorial communities' responsibilities to solve the problems vital for them;
- 5) implementation of budget reform taking into account state and local interests [175].

2. Mechanisms for implementing the decentralization reform in Ukraine at the present stage

At present, the process of forming communities in our country is mostly spontaneous, without involving the results of scientific research and specialists' conclusions. Ukraine has a number of initiatives to raise residents' awareness about the decentralization reform, but their effectiveness is doubtful.

As a result, newly formed territorial communities are quite different from each other in the main topological criteria - the size of the territory and the population, as well as they are quite different in their income and budget subsidies. If the consolidation of some territorial units took place by force, the measures should be taken to mitigate the implementation of the reform. They may include:

1. Time adaptation. Conversions take quite a long period of time. Thus, the reform in Poland from the very beginning of its implementation was estimated to last for 20-30 years, in Lithuania, Latvia, Finland it essentially took place for 15-16 years.

2. Gradualism. The detailed preparation and research of the administrative territories state are required.

3. Taking into account the population's preferences. There is a need to perform local referendums, do opinion polls not only during transformations, but also in the development of the reform concept, to involve the public, representatives of local institutions into the special centres for the processing and implementation of the reform.

4. Substantiation of the criteria for the creation of new administrative and territorial units without specifying quantitative and qualitative characteristics, the possibility of applying an individual approach to each region.

5. Terms and methods of consolidation to choose from: the process of municipalities unification or establishing an intermunicipal partnership.

On the one hand, these mechanisms mitigate the reform process, on the other hand, they may lead to its delay and, as a result, the need to apply husher administrative measures.

One of the main tasks of administrative and territorial reforms should be to increase the efficiency of providing services to the population and bringing the authorities closer to people. Reforms should be carried out comprehensively on the basis of scientifically based programs close to reality, taking into account foreign experience, our previous mistakes, social and cultural characteristics and potential of the regions.

As experience shows, more effective administrative and territorial reforms are those initiated directly by communities, and not imposed by the administrative method. But, if the initiative comes from the ruling authorities, a wide discussion of this issue and considering citizens' opinion should precede this process. Of course, natural voluntary unification of territorial communities can be stimulated by the state, providing certain preferences and incentives.

A problematic challenge for reformers is that in the areas of communities unification, the responsibilities and power of local authorities of OTG, district (rayon) councils and RDA are duplicated. At the same time, there is a rayon (district) state administration and a rayon council with appropriate expenditures for their maintenance, as well as executive bodies of OTG with powers and funding determined by law. Relevant district councils usually make decisions on monetary land estimation and redistribution of transfers from the state budget. Rayon state administrations are also

deprived of a significant number of responsibilities, which are legally carried out by the executive institutions of the OTG council.

One of the problems arising from the reorganization of territorial communities is the problem of ensuring the real capacity of the newly formed community unification of the relevant administrative and territorial unit. The key here is the availability of appropriate human resources, financial support and infrastructure development.

In fact, in the process of community unification, 3 types of financial capacity can be identified.

1) the potential or estimated capacity that hromada (community) should have, as defined in accordance with the perspective plan;

2) capacity, which is legally recognized by the Cabinet of Ministers of Ukraine in accordance with Article 9 of the Law of Ukraine "On Voluntary Unification of Territorial Communities";

3) real (true) capacity, which is determined after the community unification is formed and shows certain results of activity.

As experience shows, potential, legally recognized and real capacity coincide, as a rule, only for those community unification that have arisen around district centers.

Conversely, the creation of rural community unifications around settlements that did not have the status of administrative centers immediately causes the problem of qualified personnel support. At the same time, there is a need for such personnel who would be able to work in the conditions of expanding the powers of local authorities and solving tasks that were not previously typical for local authorities.

Based on the first stages of the decentralization process in our country, taking into account foreign experience and opportunities that exist in Ukraine to solve the issue of ensuring the financial capacity of territorial communities, it is proposed to develop urban-type settlements and villages around large cities by providing jobs for young people, developing infrastructure, promoting investment for the implementation of promising innovative projects, which will increase their competitiveness, and thereby financial capacity.