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THE POSITIVE AND NEGATIVE CONSEQUENCES
OF THE LOCAL SELF-GOVERNMENT DEVELOPMENT IN UKRAINE
IN THE CONTEXT OF EUROPEAN EXPERIENCE

In my report I’m going to touch upon some problems concerning the development of self-government in Ukraine and to tell you about two models of self-government.

The improving of the efficiency of the participation of the masses in the administrative process always was and is an actual problem of the socio-political development of any society. The purpose of the article is to analyze the classic experience of developed countries and its creative implementation into the Ukrainian political realities.

The most important principle of the organization and activities of the municipalities apply their subordination and accountability to the local populations.

The continental European model is based on the theory of state government, the essence of which lies in that the local government organs are the state authorities' organs, and their competence is not particularly original and natural but is entirely created and regulated by the state.

It is believed that the horizontal (or continental) model has become wider at present in the process of the local authorities development. This model is the basis of the self-government systems of the most European countries, French-speaking countries of Africa, some counties of Latin America, and mostly of the post-socialist countries. The dual (Anglo-Saxon) model corresponds to the oldest system of the self-government, which is different from the other systems of the local government, because of the historical patterns of its development. The mixed model with the dominant mixing of the continental model elements is different from the mixed model with dominant mixed Anglo-Saxon model with a higher degree of force
centralization, the presence of so-called administrative vertical. The difference also lies in the conjunction of the self-government with the direct public administration on the grounds those exercise the state supervision over the self-governments, it allows to do whatever is not prohibited by the law. The most widely the mixed model acquires in Germany, Austria, Japan and the others, and its hybrids exist in most countries of the world [1, p. 88].

The supporters of the European continental model based on the theory of the state self-government, believe that the state power is inextricably linked with the self-government by the presence of the general functions, the combination of the national and local interests in the solving of the problems of local significance, achievement of a common goal – improving the welfare of citizens.

In its turn, the supporters of the Anglo-Saxon model exclude the self-government's participation in the implementing of the public functions and believe that the state authorities cannot interfere in the affairs of local importance. It should be noted that the Anglo-Saxon model cannot actually be implemented in Ukraine. It is designed for the more economically developed countries.

The essence of understanding of the local self-government, which is based on the European continental model, lies in that the self-government is seen as a local public authorities set by the state. It is realized on the territory of the municipality by control exercised by the residents living within that municipality, bodies and officials of local government. However, to carry out its functions the local self-government has a real material-financial base.

The European Charter of 1985 year about the local self-government is used to be considered as the modern international-legal instrument that teaches concepts and principles of local self-government best of all. According to the official version of the Charter, the local self-government means the right and possibility of the local self-governmental bodies to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of local people within the frames of law.

The local municipal authorities, with the governmental bodies, should manage both state and local affairs, based not only on the local interests, characteristics and
traditions but on the state interests. This local governance should be based on law. Then the unity in the management of the whole country will be achieved and the gap between society and the public authorities will bridge.

The local self-government is enshrined and guaranteed in the constitutions of modern states as the one of the foundations of the governance democratic system. The term of “local self-government” reflects the complex and diverse phenomenon, the formation and development of which depends on a complex of historical, geographical, political, economical and other features of the area. It more completely allows realizing of the statement about the population is the only one source of power.

In the most civilized countries in large administrative units within their constituent territories until the grass-roots level (small towns, villages, wards, communes and so on) the public authorities realize not by the public authorities but by the local population directly or bodies formed by them (the officials) [4, p. 82].

This power gets the properties of self-organized public authority exercising the managerial functions legally recognized and secured by the central government. That is why in the legislation of the developed countries the foreign municipalities enshrined as the corporations of public law, i.e. the institutions which own the rights of public institutions. In this capacity of the municipal forming its political-legal nature appears as an organization of the public authority in the fields. Although the conditions of genesis, historical development and evolution of this institution were different in the respective countries, their political and legal nature and function in general were the same. The public-legal nature of the local self-government determines not only by the decentralization of the public power, but also by the organization of the state power in general, which is more significant problem. The local government should be functionally quite effective. The legislation about the local government is called to play a special role in this matter. At this stage of the local government forming the political activity of the population and its self-organization must be sufficiently high. It is known, that the government is impossible without the legal institutions, without the corresponding local self-government organs.
and officials and without the organizational activities of the deputies of the municipalities representative bodies [6, p. 255].

The initial theoretical and methodological basis of the forming of the public power, including the self-governing power, in Ukraine is the communicably and natural-law concept of power and self-government. These ideas humanize the public authority, make it closer to the citizens, and their implementation significantly expands the sphere of freedom of the individual, his social actions, forming a significant segment of his social interaction with the state, in the result of which the individual and collective rights of the individual are optimally implemented. In such the conditions the authorities reflect not only the specific way of thinking and the way its implementation of the will of the specific person, group of people to the life and the life of their children. Through such bodies the complete system of the social relations will be composed and functioning at the local level, what actually form a real civil society.

The borrowing of the experience from different self-governmental systems which are recognized model-creating (exemplar) has violated the logic of the self-government national model, as an integrated, system-related with the institutions of the state, and with the political culture of the population. The variability of the legislator in the determining of the local self-governments became a problem, which led to the fixing of “Community” theory of the self-government in the Constitution of Ukraine of 1996 year and the «state» theory of the government in the relevant law. In practice, it has led to a combination of elements from different models of self-government that has led to the hybridization of the Ukrainian system of local self-government, and further to its ineffectiveness in the solving of the local problems.

Thus, the local self-government is an independent activity of citizens for the regulation, management and resolution of the considerable part of local issues in the interests of the population of the area with the development of society directly or through the formed local self-government organs.
References:


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