

Decentralization of Public Authorities in Ukraine: Theoretical-Legal and Administrative Aspects*

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Abstract.

The research aims to reveal the administrative-legal, environmental, social and customs principles of decentralising public authority in Ukraine. Main content. The article reveals the main definitions of decentralisation of power and analyses the advantages and disadvantages of decentralisation in the public administration system. The article also presents the basic typology of decentralising power in foreign countries. It characterises these types, as well as an attempt to summarise the reasons for performing decentralisation in Ukraine. Methodology: The use of systemic, functional, and structural methods in this study made it possible to define concepts and types, as well as to establish the reasons for the introduction of the decentralisation reform in Ukraine. Conclusions. Various approaches to reform in European countries and their results have been considered due to the need to implement decentralisation in Ukraine. The result of the work consists of determining the main definitions of the decentralisation of power, analysis of the advantages and disadvantages of the decentralisation process, definition of the main types of decentralisation, and generalisation of the main reasons for introducing decentralisation in Ukraine.

Keywords: Administrative-Legal Aspect; Legal Aid; Defense Attorney; Lawyer; Environmental Aspect; Decentralization; Public Authority; Local Self-Government.

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A. INTRODUCTION

An optimal cooperation model in the state and local authorities system, which transfers powers to localities, ensures a relatively rational organisation of public authorities. In turn, transferring more powers to lower-level authorities constitutes the essence of the decentralisation process. Against the background of various processes taking place at the current stage in the territory of Ukraine, this problem is quite important because in order to establish an effective system of government in Ukraine, it is necessary to solve problematic issues regarding excessive centralisation of powers and financial resources of executive bodies, conflicts of powers and responsibilities between local government authorities and bodies of local self-government, underdevelopment of self-organisation of the population and inter-municipal cooperation. In this regard, Ukraine stands at the start of implementing large-scale reforms aimed at establishing a democratic, legal, and social state, improving the welfare of the population, improving the political and state-management systems, renewing the national atmosphere, and strengthening the authority of the state in the international arena.

The reconstruction of society and the sustainable development of our state is possible if a sufficiently effective management system at all levels of state power is available. Interaction between various branches of government should be based on a clear national policy strategy. Carrying out reforms in Ukraine was quite a difficult task, to a greater extent, due to the lack of generalised, systematic knowledge about these processes among many of the population. Achieving a rational rethinking of the ratio of centralisation and decentralisation, changing the role, responsibilities, and powers of executive power bodies and local self-government bodies to public power authorities, is one method of achieving an effective state functioning.

Both foreign and domestic scientists have long considered the topic of decentralisation of public authorities, among whom it would be appropriate to mention M. Ketting, J. Scott, P. John, as well as O. Boryslavska, I. Zaverukha, M. Izha, V. Kubyda, and others. Scientists are interested in the fact that in most countries of the European Union, the decentralisation processes have been implemented quite effectively. Therefore, the experience gained by other countries is significant for Ukraine during the introduction of these processes.

To date, the state has undertaken to ensure the adoption of all necessary laws for transferring powers and resources to localities. The state also provides organisational and methodical support for the unification of territorial

communities, which takes place based on the Law of Ukraine “On Voluntary Unification of Territorial Communities”. One of the first steps consisted of budget decentralisation, which was quite successful. After all, thanks to the new budget policy, local communities received additional funding for infrastructure development: repair of road surface, implementation and repair of street lighting, solving issues of water supply and drainage, disposal of household waste, etc. All this testifies to the effectiveness and irreversibility of decentralisation in Ukraine. The next step is the decentralisation of management, which should be carried out on the principles of expediency, responsibility and justice.

Among domestic and foreign scientists who studied the problems of decentralisation of power, we can name V. Andruschenko, N. Nyzhnyk, Pohorilko, O. Lazor, L. Pysmachenko, L. Sus, M. Baimuratov, I. Hrytsyak, V. Shapoval, A. Kolodiy, Y. Leheza ([Leheza et al., 2022](#)), Halaburda Nadiia, Leheza Yevhen, Chalavan Viktor, Yefimov Volodymyr, Yefimova Inna investigated ([Halaburda et al., 2021](#)). and others. However, it is worth noting that insufficient attention was paid to the comprehensive study of the decentralisation reform in Ukraine. This is what led to the choice of the topic of this article. Although the problem of decentralisation is not new, it is quite relevant given recent events. First, it is necessary to clarify the essence of the concept of decentralisation of state public authorities.

B. METHODS

The research is based on the works of foreign and Ukrainian researchers regarding methodological approaches to understanding the administrative-legal, ecological, social and customs principles of decentralisation of public authorities in Ukraine. With the help of the epistemological method, the essence of the administrative-legal, ecological, social and customs principles of decentralisation of public authorities in Ukraine was clarified; thanks to the logical-semantic method, the conceptual apparatus was deepened, the essence of the administrative-legal, ecological, social and customs principles of decentralisation of public authorities in Ukraine was determined. In order to get an idea of the peculiarities of the administrative-legal, ecological, social and customs principles of decentralisation of public authorities in Ukraine over the past five years, we analysed statistical data, which, unfortunately, are not based on all the canons of statistical generalisation, since we did not have access to all blocks of information. However, thanks to the available data, it was possible to

analyze the administrative-legal, ecological, social and customs principles of decentralization of public authorities in Ukraine.

C. RESULTS AND DISCUSSION

1. The Definition of the Concept of Decentralisation

Decentralization is the process of redistribution of functions, powers and people from the central administration. Decentralization of power includes both administrative and political sides. It can be territorial (transfer of power from the central city to other territories) and functional (through the transfer of powers and decision-making from the main body of any ministry, service or department of the Cabinet of Ministers of Ukraine to officials of lower public authorities. ([Law of Ukraine, 2014](#))

There are a large number of approaches to the definition of the concept of “decentralization”; among these approaches, the following ones can be singled out: independence in management approaches, transfer of part of the state management functions of central executive bodies to local executive bodies (Obolenskyi, 2007); transfer of part of functions and powers of the higher levels of management to the lower and the weakening or abolition of centralisation ([Malynovskyi, 2005](#)); the process of redistribution of power and scope of competence between the central and local levels. ([Kolyshko, 2003](#))

It is also important to note the position that “in general, the essence of decentralisation consists in the fact that functions and powers on exercising of the unified state power, originally belonging to the people, are distributed between the relevant state power bodies, on the one hand, and state power bodies and local self-government bodies on the other hand. The first case is about the distribution of functions and authorities concerning unified state power, primarily between the highest bodies of the state, which is reflected in the principle of dividing state power into legislative, executive and judicial. While reflecting the principles of the relationship between the parliament, the head of state and the government, this method of decentralisation of state power is known to be covered by the form of state government”. ([Bordeniuk, 2005](#))

An extensive explanatory dictionary of the modern Ukrainian language defines “decentralisation” as a management system that presupposes that a specific part of the functions of the central government are transferred to local self-government bodies, expanding the rights of lower management bodies. ([Leheza et al., 2020](#))

In political science, the term “decentralisation” (from the Latin *de...* - prefix meaning negation, and *centralise* - middle) is a management political system designed to implement powerfully significant practical decisions that are geographically or organizationally outside the direct influence of the central government; a political process that involves delegation of certain powers by the central government to the local level in order to optimise practical solution of issues of national importance, as well as the implementation of specific regional and local programs. ([Bordeniuk, 2005](#))

I. Hrytsiak defines the decentralisation of state administration as the activity of independent local self-government as a result of state powers transferred to them, as well as the process of expanding and strengthening the rights and powers of administrative-territorial units or lower bodies and organisations while simultaneously narrowing the rights and powers of the corresponding centre. ([Hrytsiak, 1997](#))

While studying the issue of decentralisation, N. Nyzhnyk notes that this process is a unique way of reproducing centralisation, and it acquires manifestation of its opposite side ([Nyzhnyk, 1997](#)). General government bodies of lower levels of government can independently and finally make decisions that fall within their competence ([Leheza et al., 2022](#)). N. Nyzhnyk believes that decentralisation is a typical characteristic of the sphere of public administration, and this phenomenon, determined by objective and subjective factors, is a specific opposite side of centralisation, a means of reflection. ([Nyzhnyk, 1997](#))

When considering the advantages and disadvantages of decentralisation, several advantages of this process can be identified, including the simplified structure of local management, the establishment of closer ties with civil society, increased transparency of management decision-making, stimulation of decision-making based on reordination, and an increased degree of responsibility to the territorial community. Disadvantages of decentralisation of power include risks of inconsistency in the development directions of individual territorial units and strategic goals, complications of coordination between levels of management, and threats of monopolistic state position in certain areas. ([Leheza et al., 2022](#))

Regarding typology, decentralisation can be divided into administrative, political, budgetary and market ([Villasmil Espinoza et al., 2022](#)). Under administrative decentralisation, absolute subordination to central authorities is preserved; political decentralisation means decentralisation of authorities and management, management decision-making; budgetary decentralization

provides for the decentralization of financial and material resources, which is the basis for economic independence of individual territories; market decentralization involves the distribution of individual functions of analysis and management to state and private structures (Fig. 1). All these types of decentralization are interconnected, they reinforce the general trend and complement each other.

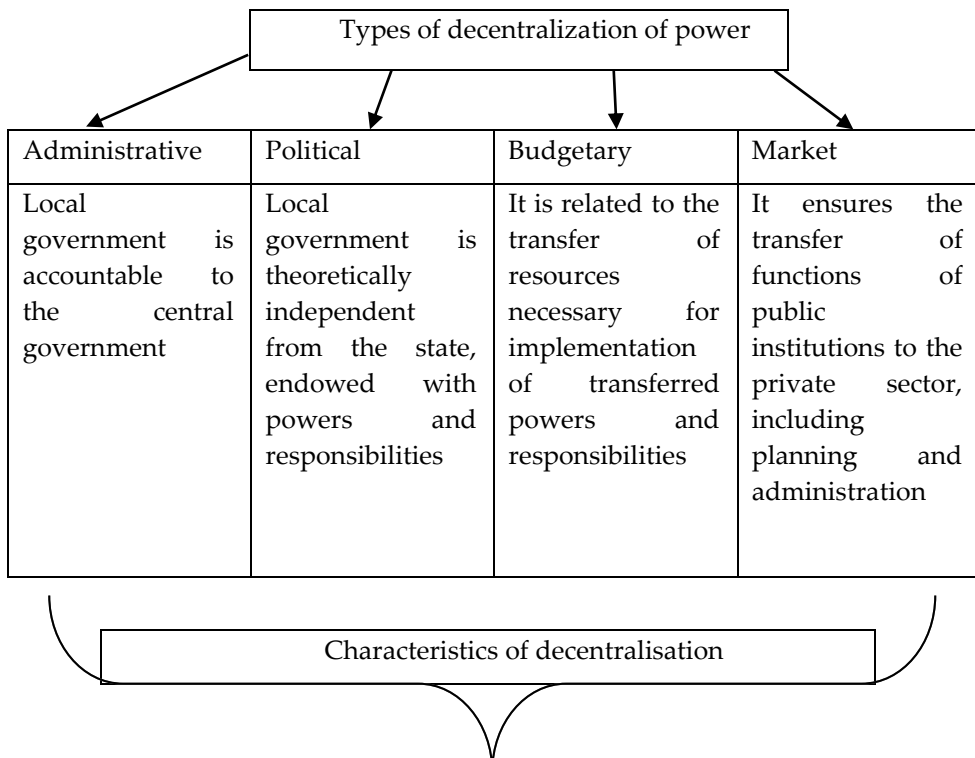


Fig. 1 Characteristics and types of centralisation

Effective decentralisation is impossible without real self-management of the lower levels of government and democracy as a way of exercising power. Decentralisation is a specific management method that is quite important for local democracy and the development of self-government. In their works, domestic scientists consider decentralisation as the redistribution of powers between the centre and regions in favour of regions, delegation and sub-delegation of functions and powers to regions, etc. Decentralisation is characteristic of the state administration system, which is determined by various factors, primarily due to the division of functions between central authorities and local self-government bodies. ([Zhukova et al., 2023](#))

Decentralising power is one of the priority areas of administrative reform in Ukraine. It involves increasing the role of regional state authorities and local self-government bodies in implementing economic and structural reforms. Decentralisation accelerates changes in territory economies, optimises state and communal property management, and develops cross-border and regional cooperation in various spheres of social life. ([Leheza et al., 2022](#))

The decentralisation of power in Ukraine combines regional and national interests of balancing centralisation and decentralisation in local self-government institutions. The constitutional principle of the independence of local authorities is mandatory for the decentralisation of power and for bringing it closer to the population, creating conditions for the most complete and prompt identification and satisfaction of people's needs. In addition to that, decentralisation acts as one of the forms of development of democracy, which allows the preservation of the state and its institutions and at the same time, expands local self-government, achieving activation of the population in the issue of solving their own needs and interests, reduce the spheres of influence of the state on the society through replacing this influence with mechanisms of self-regulation produced by the society itself, reduce the costs of the state and taxpayers for the maintenance of the state apparatus. ([Kobrusieva et al., 2021](#))

Among the reasons for the introduction of power decentralisation in Ukraine, the following should be mentioned:

First, Excessive centralisation of power in decision-making. From the beginning of its declaration of independence, the decentralisation of power occupied a rather important place in Ukraine. This issue became particularly active in 2014. Since 2010, a super-presidential republic has existed in Ukraine; under this form of republic, a strict centralisation of powers and resources was established in the vertical of executive authorities. In such conditions, the role of the Cabinet of Ministers as the highest body in the system of executive power was significantly limited; the Verkhovna Rada found itself in a status when there was a threat to the existence of parliamentarism in Ukraine, local self-government was nullified, the financial independence of territorial communities was destroyed, and corruption became unprecedented.

Second, their weak financial base causes local authorities to have financial incapacity and insufficient resources to solve everyday community development issues.

Third, subsidiarity is violated in the distribution of powers and the

formation of stable sources for filling local budgets. Local self-government bodies' possibilities in regulating the rates of local taxes and fees, establishing benefits, strengthening the revenue base of local budgets due to the reduction of tax benefits, etc., remain limited.

Fourth, Non-compliance with the current system of Ukraine's administrative and territorial organisation with the requirements of ensuring the ubiquity of self-government. A large number of small territorial communities, the absence of enterprises on their territory that would bring a stable profit, and a low income population level cause problems concerning pumping local budgets, creating difficulties in local development management.

Fifth, there is a Lack of responsibility for the territory's development and a low level of trust between the authorities and public organisations.

Sixth, the state of infrastructure development is unsatisfactory, and the quality of services provided to citizens of one or another community is low.

Seventh, the Degradation of the quality and availability of public services results from the resource incapacity of the vast majority of local self-government bodies to exercise their own and delegated powers.

Eighth, Differences in views regarding socio-economic development between local self-government bodies and the fundamental interests of territorial communities.

A decrease in the level of professionalism of local self-government officials, in particular, due to the low competitiveness of local self-government bodies on the labour market, a decrease in the prestige of positions which leads to low efficiency of management decisions

2. Foreign Experience of European Countries Regarding Decentralization of Power

Several models of local self-government exist in foreign countries. These models differ significantly in forming local self-government and interacting with local-level bodies with state bodies (Izha, 2010). The so-called "positive" regulation of local authority activities has been established in countries with a predominantly Anglo-Saxon model of local self-government. This principle is based on the observance by local self-government bodies and officials of the powers prescribed in the relevant statute.

In general, in the last century, decentralisation has been the most common topic in the world. Thus, in Eastern Europe, the beginning of the

spread of decentralisation fell at the beginning of the 90s. During the 20th century, organisational reforms could be observed. Implementation of these reforms took place under the influence of the central government. These reforms were aimed at changing the internal structure of territorial units. They included such elements as a more open and public nature of the decision-making process and public participation in their adoption. In many ways, these measures contributed to the active participation of local self-government bodies in the political systems of such countries as Italy and Great Britain and their transformation into state policy leaders.

Decentralisation provides for the autonomy of regions by the adopted laws. However, the supreme authority decides the terms of the transfer and the list of powers transferred to the regions. Under certain circumstances, risks and dangers arise in decentralisation, and under such conditions, some spheres of social and state life are not amenable to decentralisation. Therefore, the identified process has positive and negative aspects (Table 1).

Table 1
Positive and negative aspects of decentralisation

Positive aspects	Negative aspects
1. Reinforcement of local self-government, which has a significant amount of information about local conditions for decision-making; no costs are needed to transmit information.	1. Likelihood of making incompetent decisions due to lack of information and coherence.
2. The community is the primary unit of the administrative-territorial system, which allows for improving the region's socio-economic development by considering socio-territorial interests.	2. There is a lack of funds to maintain budgetary institutions (educational institutions and hospitals) in small towns, and underfunding is constantly threatened.
3. Consolidation of the principle of subsidiarity.	3. A significant share of local tax revenues is directed to maintaining state functions.
4. Timeliness of decision-making at the local level.	4. Duplication of functions at several levels.
5. Availability of a basis for the emergence of new talented civil servants and reduction of management costs.	5. Isolation that leads to conflicts and impossibility of control.
6. A more flexible regulation system and absence of bureaucracy typical for centralised management.	

Some reforms included measures aimed at decentralising the powers of state authorities and transferring these powers to local self-government bodies. For example, in Great Britain, a reform was carried out regarding providing

social services to bring them closer to people. A similar decentralisation of some state functions was also carried out in Italy. ([Kuibida, 2007](#))

Sweden has a two-tier model of self-government. It presupposes municipalities and counties can be financed from local taxes, strengthening their autonomy. The Swedish model of a social state provides for a clear division of functions between the central government and the two-tiered local government. The government authorities of this state have remained unchanged since the 18th century, and the administrative apparatus is small. Less than 20% of civil servants work in central management bodies.

Municipalities implement most social services in Sweden, so 60% of them are municipal employees. The territorial reform carried out in due course further strengthened the power of municipalities and became the basis for further decentralisation in the country. Today, legislative regulation is relatively “soft” in Sweden, as the government pursues a policy of “non-interference” in the affairs of local authorities, and this is a clear example of the independence of local self-government. ([Leheza et al., 2023](#))

With its traditions of federalism, Germany is a typical representative of a decentralised system. This concerns the relationship between the federal level and the “Lands” due to local authorities’ strong political and administrative position in their relations with the central government. The powers and spheres of responsibility of the federation and the regional “lands” of Germany are clearly defined by the constitution; according to the constitution, the federation is responsible for the formation of policy and legislation, and local authorities are subordinate to the “lands” with the execution of the most public functions. The “lands” liquidated their administrations during reforming by transferring their powers to local authorities. Alongside this, this country demonstrates a tendency to include local authorities in the state administration; that is, integration of local administrations into the state apparatus is performed. ([Korneyev et al., 2018](#))

The formation of local public authorities in France also took place through decentralisation. France was a reasonably centralised state until 1980, but the reforms created conditions for decentralising power and democratisation of the public administration system. During 1982-1986, more than 40 laws explicitly aimed at decentralisation were adopted in France. The success of French decentralisation was confirmed by the agreement of political leaders and the approval of the reform by citizens. The last stage of reform in this country, which was carried out by making some changes to the Constitution of the French Republic of 1958 by the Constitutional Law of March

28, 2003, is not yet complete and is still ongoing. ([Kolyshko, 2003](#))

Changes to the state system in Poland provided for the decentralisation of state structures by the principle of subsidiarity. Poland has gone through a long and somewhat painful path of decentralising power. The self-government reform was aimed at changing the way of management at the local level, creating an independent self-governing “Gmina” administration, which was separated and subordinated to the democratically elected “Gmina council”. Gmina is the smallest administrative-territorial unit in Poland. In 1990, the first decentralisation reform was carried out; the first elections were performed to the lower level of local self-government (to gminas).

The experience of the first stage of the Polish self-government reform confirms the thesis that without creating opportunities for the development of local self-government, it is difficult to imagine the construction of democratic institutions and effective opposition to stereotypical manifestations of behaviour typical for the totalitarian period. ([Leheza et al., 2019](#))

After a nine-year hiatus, the second and third levels were introduced, namely districts (“poviats”) and regions (“voivodeships”). Each of the listed levels has its functions, powers and finances. For this purpose, during all nine years, laws were passed; as a result of these laws, the central government lost its monopoly, and the unified budget system and state property were liquidated. 150 such laws were adopted ([Shkuta et al., 2022](#)). The primary motivation for carrying out the second stage of the self-government reform consisted of improving the efficiency of the state in solving local and regional problems and changing Polish territorial structures under the requirements of European integration. ([Matviichuk et al., 2022](#))

Today, the budget is adopted separately in each region of Poland, the state does not manage the region's public property, and all the powers of gminas, districts, and regions are distributed at the legislative level. It should be noted that the people elect candidates in Poland, so the elected authorities' responsibility to their voters increases. In addition, many spheres of public life are controlled by local self-government.

Notably, most of the decentralisation reforms implemented recently in European countries were accompanied by an increase in the resource base of local self-government bodies. Success was achieved through the voluntary unification of municipalities; therefore, applying this experience of implementing territorial reforms in Ukraine is appropriate. ([Leheza et al., 2021](#))

The practice of European states makes it possible to single out the main

conceptual approaches to reforming the system of administrative and territorial organisation:

- 1) Decentralisation of state power and simultaneous increase in the powers of territorial communities in order to speed up their socio-economic development, providing quality services to citizens, and strengthening the principle of democratisation in the activities of local self-government bodies;
- 2) Unification of administrative-territorial units under a common administrative centre;
- 3) Mandatory adoption of the Law "On Administrative and Territorial Organization" as well as the introduction of other normative acts regulating the status of individual administrative and territorial units;
- 4) The country's strategic direction consists of accession to the EU and implementation of the division of administrative and territorial units under the requirements of NUTS (Nomenclature of Territorial Units for Statistics). ([Kuibida, 2009](#))

In the applied dimension, decentralisation is accompanied by administrative and territorial reform. Models of such rationalisation can be different and correspond to the specifics of the development of national political-legal systems. For decentralization to occur more consistently and intensively, it is complex constitutional and generally political and legal support, and the implementation of appropriate control by civil society is mandatory. ([Dymko et al., 2017](#))

In Ukraine, an important direction of decentralisation is the introduction of territorial communities to implement certain functions. A territorial community is a voluntary association of residents of several villages or settlements into a single administrative-territorial unit. So, the first attempts to unify (consolidate) communities are currently being applied in Ukraine. ([Tylchik et al., 2022](#))

The essence of local self-government reform in Ukraine involves transferring broad powers to localities. As a result of decentralization, local territorial communities will receive the authority to solve current problems and appropriate funding for this. At the community level, a more transparent and open provision of administrative services is possible. However, it should be remembered that the consolidation of communities in various European countries was both positive and negative. ([Leheza, 2022](#))

The main task of local self-government bodies is to create conditions under which citizens, relying on their work and initiative, according to their talents and perseverance, can provide for all their life needs. This requires stimulation of local self-government in matters of ensuring high standards of quality of life and those that would contribute to the general socio-economic development of the state through the synergy of interregional cooperation.

D. CONCLUSIONS

Based on all the above, the following conclusions can be drawn. The process of decentralisation of power is one of the priority areas of administrative reform in Ukraine, and it involves increasing the role of regional state authorities and local self-government bodies in implementing economic and structural reforms. Decentralisation accelerates changes in the economy of territories, optimisation of state and communal property management, and development of cross-border and regional cooperation in various spheres of social life. Therefore, the goal of the decentralisation policy is to move away from the centralised model of governance in the state, ensure the capacity of local self-government, build an effective system of territorial organisation of power in Ukraine, fully implement the provisions of the European Charter of Local Self-Government, the principles of subsidiarity, universality, and financial self-sufficiency of local municipalities. Therefore, valuable and necessary points in the legislation on the decentralisation of power in Ukraine include innovations that concern the consolidation of the principle of decentralisation in the constitution regarding the organisation of power and the principle of subsidiarity, separation of powers between various branches of government; the possibility of voluntary association (consolidation) of territorial communities; introduction at the regional level of strategic programs aimed at the development of regions.

The experience of reforms in foreign countries shows that decentralisation plays an important role in the democratisation and transformation of society and transition to institutions based on the initiative and responsibility of an individual and the community. The tendency towards its widespread implementation is observed in the administrative, political, budgetary, financial, and social spheres; it contributes to the development of human potential, the responsibility of the authorities, improvement of the quality of the state and public services provided, consolidation of the society, and solution of economic, legal, political, and ethnic problems. In addition to increasing the level of democratic order stability, decentralisation also promotes constant competition in all regions, which is another factor for the

constant improvement and prosperity of the country without violating its integrity.

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