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IMPLEMENTATION OF THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT IN UKRAINIAN LEGISLATION

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Abstract. The European Charter of Local Self-Government, adopted in Strasbourg on 15 October 1985 by the member States of the European Council, became the basis for international regulation of self-government in progressive countries that are members of the Council of Europe. It was implemented into Ukrainian legislation on 01 January 1998. It is committed to maintaining an optimal balance between the municipality and local self-government. This is the reference point promoted by the European Charter, which is referred to by the current legislation of Ukraine.
Keywords: local self-government, the Constitution of Ukraine, the European Charter of Local Self-Government, unitarism and regionalism, the state.

One of the important elements of the life and development of the state and society is local self-government, and the implementation of the constitutional principles of local self-government in practice is a decisive step towards the establishment and development of the rule of law and civil society. The idea of self-government for the Ukrainian people is not new. As the experience of generations shows, the issue of local power is inseparable from the principles of civil society and the rule of law in our country and has deep historical roots. It is enough to recall at least the realization

of the ideas of self-government in the Zaporozhian Sich, in the Constitution of Pylyp Orlyk, the development of these ideas in the works of M.P. Drahomanov and M.S. Hrushevsky, in the Universals of the Central Council and the Constitution of the UNR adopted by it in 1918.

Within this context, it is essential to feature the interaction between public authorities and civil society institutions, where local self-government is one of them, and such interaction is not just one of the important elements of public policy, but also forms part of the legal reality, and when talking about the historical context – of the historical legal reality [1, p. 171].

After the declaration of independence, Ukraine immediately set a course for European integration, having only the Declaration of State Sovereignty of Ukraine [2], the outdated Constitution of the Ukrainian SSR 1978 [3] and the legal framework of a non-existent state. The adoption of the Constitution of an already independent Ukraine was outlined as a priority task.

In preparing the draft Constitution of Ukraine in 1996, the section "Territorial structure and territorial organization of power" became the most controversial. Conservative communists demanded the preservation of the Soviet power system, then the democrats seemed to want change, but they were afraid of decentralization, trying to maintain the authority of the center, while the liberals insisted on strengthening the rights of local self-government [4, p. 56]. Pseudo-patriots, guided by their own pragmatic goals, have already seen themselves in key positions of a weak Ukraine as part of the Russian Federation. Therefore, they stubbornly advocated federalization, which then and now means the cessation of the existence of a state that has not yet been fully created.

Progressive scientists, politicians and public figures insisted on expanding the rights of regions and strengthening their status within the framework of a unitary state on the principle of unitarity and regionalism. Formation and development of the legal system of Ukraine, Ukrainian national legislation, in the first place, constitutional legislation, gradual withdrawal from of Soviet legal heritage necessitated the entrenchment of human rights in Ukraine on constitutional and legal level [5, p. 211].

However, at that time, the true patriots of Ukraine still really realized the precarious centralization of power, especially ignoring the problems of national minorities, limiting local power and narrowing the foundations of local self-government. They insisted on creating an optimal balance between the municipality and local government. This is the reference point professed by the European Charter, which was emphasized.

The right of the people to power can also be direct, that is, implemented through a referendum [6, p. 40]. Section III of the Constitution of Ukraine is dedicated to this requirement. Article 5 of the Charter also corresponds to this principle. Non-compliance with the letter of the law and the spirit of law has become a bloody mark in the history of independent Ukraine. “Changes in the boundaries of the territories of local self-government cannot be carried out without first clarifying the opinion of the population of the respective territories, possibly by holding a referendum, if this is permitted by law,” [7], as stated in the above-mentioned article.

Unfortunately, the situation that has developed in our country today testifies to the disregard for international law and our own Constitution. Article 73 of the Basic Law clearly regulates: "Exclusively all-Ukrainian referendum decides questions about changing the territory of Ukraine" [8]. This is the conflict between the legally established norms in Ukraine, that is, democracy, and the lack of organization of the society. The principles of the Constitution of Ukraine of 1996 cannot be ignored. For example, the problem of our country is that, with the support of the Armed Forces of the Russian Federation, the norms of the Basic Law were leveled by fake referenda in the Crimea and the so-called LPR (Luhansk People's Republic) and DPR (Donetsk People's Republic), which now operate on an illegitimate legal basis. Therefore, leaving such acts unpunished, Ukraine is still suffering from separatism, terrorism and the occupation by the troops of a neighboring state. We cannot turn a blind eye to arbitrariness and leave violations of international law unpunished. At one time, bloodshed in the East of Ukraine could have been avoided so that a fifth column would not come to power that fulfilled the will of the powers of the imperialist-

minded Russian Federation, for which the idea of democracy was only eloquent slogans.

In this context, it can be argued that local self-government is the basis of any democratic system that Ukraine seeks. By limiting the powers of local authorities, the Central state power risks becoming an authoritarian force [9, p. 41]. The conditions for the effective functioning of the municipality are set out in the European Charter, and they are implemented by trial and error in the current version of the Constitution of Ukraine and the Law on Local Self-Government in Ukraine dated 21 May 1997 No. 280/97-BP. Article 4 of this Law contains the basic principles of local self-government: democracy; legality; publicity; collegiality; combination of local and state interests; electability; legal, organizational, and material and financial independence within the limits of the powers defined by law; accountability and responsibility to territorial communities; state support for local self-government; judicial protection of local self-government rights [10]. In general, the Charter contains similar provisions.

The problem of implementing the European Charter of Local Self-Government was different. Taking international jurisdiction as the basis for the formation of the national system of local self-government, Ukraine at that time had no right to ratify it. Article 15 of Part III of the European Charter clearly indicates the limited use of a legal act in the national system of legislation, that is, exclusive membership in the Council of Europe [7]. In the early 90-ies of the twentieth century, a young and weak state could only think of such a thing.

Even at the stage of drafting the Constitution of Independent Ukraine of 1996, its authors formed, to a certain extent, the postulates on which the legislation of the state with regard to municipal authority should be based. Based on the European Charter of Local Self-Government, they adapted the pro-European principles to the realities of Ukrainian needs, in particular:

- local self-government authorities are the basis of a democratic system;
- the right of municipal power should be exercised by councils whose members are elected by free, secret and direct voting;

- control over the activities of local self-governing authorities should be carried out in the forms and cases provided for by the legislation of Ukraine;
- state and other structures should timely and properly conduct consultations with local self-governing authorities in planning and making decisions on all issues that concern them;
- direct participation of citizens in the management of local affairs;
- local executive authorities should have appropriate budgets, making up revenues from local taxes and fees, the disposal of which should be carried out in accordance with the national economic policy and within the competence of the relevant local self-government authorities;
- municipal authorities should have sufficient powers to effectively implement all of the above principles [11, p. 6].

It is these postulates that formed the basis for further development and improvement of Ukrainian legislation in terms of local governance. However, the issue of resolving the uncertainty of the territories of the regions and their special status is still open to this day. The special status of the two cities of Kyiv and Sevastopol is still specified in article 133 of the Basic Law and, despite all the tragic events of recent years, is officially recognized by the democratic countries of the world [8]. Attempts to give special privileges to part of the Eastern territories of Donetsk and Luhansk regions are open and heatedly debated now. Territorial fragmentation in exchange for peace or the preservation of borders with human casualties is the main payment for Ukraine's failed policy both in foreign and in the field of local governance. Our state is now fighting for the right to exist in order to integrate into the world community.

On 09 November 1995, Ukraine became a de jure part of the European community, becoming the 37th member of the Council of Europe. Thus, the country committed itself to reforming its legislation to the standards of democratic values of the Old World. One of these provisions was the ratification of the European Charter of Local Self-Government.

Shortly afterwards, on 06 November 1996, in Strasbourg, Ukraine signed the European Charter of Local Self-Government. The Law of Ukraine "On Ratification

of the European Charter of Local Self-Government" dated 15 July 1997 No. 452/97-BP introduced it into the official law of the state [12].

Ukraine has just passed the path of its formation, and therefore the legislative base remains changing. We are still far from the stability of Europe, since for 29 years the state has been setting boundaries, and for the past 6 years it has been simply fighting for the right to dominate its own legal territory. However, the foundations of stability and development of the state were laid back then, in the 90s of the twentieth century, when true patriots built the foundation of the future of Ukraine, creating a state, extolling the law, continuing the story.

The ratification of the European Charter of Local Self-Government was one of the first milestones in the implementation of European standards in the domestic legal field.

Conclusions and suggestions. The formation of Ukrainian legislation regarding local governance should be viewed through the prism of the implementation of the European Charter of Local Self-Government. It is evidenced by the following results:

- the concept of self-government means the realization of human rights in the management of public affairs and protection of their interests;
- local self-government should operate on the basis of communal property, which is clearly defined and separated from the state;
- strict adherence to the principle of distribution of power. That is, the division of powers between the municipal government and local local self-government authorities. The interconnectedness and coordination of the actions of these two authorities is necessary for the normal functioning of local authorities. However, the system of subordination must be clearly defined;
- vesting local self-governments authorities with sufficient authority and budget to meet the needs of a particular region.

LIST OF REFERENCES

1. A.Ie. Shevchenko, S.V. Kydin, O.Hr. Kapichon. Problems of interaction between public authorities and local self-government in Ukraine. Materials from the 4th International Scientific and Practical Conference "*Perspectives of world science and education*" (Osaka, December 25-27, 2019). – Osaka : CPN Publishing Group. – P. 170-175.
2. Declaration of State Sovereignty of Ukraine dated 16 July 1990 No. 55-12. *Information of the Supreme Soviet of the USSR*. 1990. No. 31. Article 429.
3. Constitution (Basic Law) of Ukraine dated 20 April 1978 No. 888-09. *Information of the Supreme Soviet of the USSR*. 1978. No. 18. Article 268. URL: http://zakon0.rada.gov.ua/laws/show/888-09.
4. V.M. Shapoval, A.V. Kornieiev. History of the Basic Law (constitutional process in Ukraine in 1990-1996). Kharkiv, 2011. p. 111.
5. A.Ie. Shevchenko, S.V. Kydin, O.Hr. Kapichon. Issues of improving the mechanism of protecting human rights. Materials from the 5th International Scientific and Practical Conference "*Scientific achievements of modern society*" (Liverpool, January 8-10, 2020). – Liverpool : Cognum Publishing House. – P. 207-216.
6. A. Kolodii, M. Rudnytskyi. Problems of further implementation of the idea of democracy in Ukraine. *Bulletin of the Academy of Legal Sciences of Ukraine.* Kharkiv, 1997. No. 3. p. 39-48.
7. European Charter of Local Self-Government: international document dated 15 October 1985. URL: http://zakon1.rada.gov.ua/laws/show/994_036.
8. Constitution of Ukraine: Law of Ukraine dated 28 June 1996 No. 254к/96-BP. URL: http://zakon3.rada.gov.ua/laws/show/254.
9. V. Kopieychykov, V. Selivanov. State structure. Ensuring a balance of interests. *Viche*. 1994. No. 7 (28). p. 33-42.
10. On local self-government in Ukraine: Law of Ukraine dated 21 May 1997 No. 280/97-BP. *Information of the Verkhovna Rada of Ukraine*. 1997. No. 24. Article 170.

11. V. Kopieychykov. The problem of self-government and its solutions in Western democracies and in Ukraine: lecture. Kyiv, 2000. p. 32.

12. On the ratification of the European Charter of Local Self-Government: Law of Ukraine dated 15 July 1997 No. 452/97-BP. *Information of the Verkhovna Rada of Ukraine*. 1997. No. 38. Article 249.

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