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Reforms in the Administrative and
Territorial Structure of Ukraine:
Lessons of History
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The book contains a brief analysis of the history of changes in the administrative and territorial structure of Ukrainian territories from P. Stolypin's reforms up to the present day. The book provides information on the first attempts to reform the administrative and territorial structure of independent Ukraine in 2005 and analyzes the reasons of their failure, as well as giving information on new concepts and developments in the field proposed by the Ministry of Regional Development and Construction in collaboration with experts from the Civil Society Institute, other non-governmental organisations and academic institutions.

The intended readership of the book includes local state administration employees, the staff of local self-government bodies, local council members, politicians, students, and all those with an interest in the organisation and functioning of local self-government in Ukraine.

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INTRODUCTION TO THE ENGLISH- LANGUAGE EDITION

This publication, which was made possible by collaboration between Ukrainian researchers from the non-governmental sector, public officials, historians and foreign donors, is probably the first Ukrainian research in the based on authentic sources — the legal acts issued by the various organs of power that have operated on the territory of present-day Ukraine at different times.

Since the book was first published in Ukrainian, the president and government of Ukraine have changed, a new parliamentary majority coalition has been formed and draft reforms prepared by the Committee on Economic Reforms under the President of Ukraine have been made public.

Presidential speeches and the government's programme continue to emphasize the need for power to be decentralised and reforms to be introduced in the administrative and territorial system and the local self-government sector. This is unsurprising, because regardless of what one's position was while in opposition, once in power it becomes necessary to address the issues and not simply criticize one's predecessors.

And reforms in public power are imperative. The new government will only be able to rule effectively after strictly defining the territorial basis of power and clearly and definitively distributing competences between the different types and levels of public authorities.

The incessant reallocation of competences between bodies of power at the national level and the state of permanent conflict between executive authorities and local self-government bodies at the regional level have resulted in the almost total collapse of the entire system of public power. Power has become ineffectual, and not only politicians, but ordinary Ukrainian citizens as well are all too aware of the fact. However, the recipes put forward for restoring the effectiveness of power are extremely diverse.

In the first place it is suggested that there should be a further redistribution of powers between parliament, the government and the president, that a new electoral system should be introduced, and that local state administrations should be abolished and executive committees of oblast and rayon councils created instead.

These somewhat chaotic suggestions on amendments to the Constitution of Ukraine seem to ignore any discussion of defining the spatial basis of the new system of power that needs to be created in Ukraine without delay. Only strongly organised and effective power with commensurate competences, resources and responsibilities is capable of leading Ukraine out of its protracted crisis and making the country successful.

As things have transpired, the administrative and territorial structure as the spatial basis of the system of power has become one of the most sensitive issues for Ukrainian policy-makers, who are reluctant even to discuss the subject, believing that this topic can spell the end for the career of any politician or political force.

We believe that this approach is wrong and damaging for the future of the state. It is based mainly on inadequate information about the role of the administrative and territorial structure in the establishment and exercise of effective public power; a lack of understanding of leading politicians' roles in administrative and territorial reforms in the various periods of Ukrainian history when the country was divided between different states; the mistaken notion of the current administrative and territorial structure as something permanent and "sacred"; and the myth of the unique nature of Ukrainian state and, therefore, the unacceptability of applying foreign experience to Ukrainian reforms.

That is why this modest publication has been written — based mainly on Ukraine's historical experience — and aspiring to identify a pattern in the origins of the administrative and territorial reforms that took place in Ukraine during the 20th century; to provide answers to at least some of the questions concerning the objective necessity and inevitability of these reforms; to evaluate the lessons of the various reforms; to identify the reasons for the failures of reform programmes over the last 20 years of Ukrainian independence; and to uncover the risks that might now, once again, hinder the implementation of well-thought out and much-needed reforms.

Over the course of this study, hundreds of normative and legal acts from the Soviet era, covering administrative and territorial changes in Ukraine from 1919 onwards, have been reviewed; dozens of academic and non-academic articles on the administrative and territorial structure and local self-government by Ukrainian and foreign authors have been studied; the political programmes of presidential candidates in the 1999 and 2004 elections and of parties and electoral blocks in the elections to parliament — the Verkhovna Rada (Supreme Council) — in 2006–2007 have been revisited; and the materials of numerous journalists and public speeches made by national politicians have been explored.

The scope of this particular publication does not allow us the opportunity to make use of all the aforementioned materials. We hope, however, that a significant portion of them will become available through the Internet resources of the Civil Society Institute and its partners. The first publication of the research will not mean that it has been completed, and eventually we hope to have a broad-reaching and well-substantiated study that is of value not only to politicians, civil servants and professionals in the field, but to academics and students as well.

SECTION 1. FORMATION OF THE ADMINISTRATIVE AND TERRITORIAL STRUCTURE OF UKRAINE IN THE 20TH CENTURY: SOME HISTORY

1.1. Administrative-territorial and self-government reforms on Ukrainian territory before World War I and the Revolution of 1917

Before World War I, Ukrainian territory was divided between two great empires: Austro-Hungary and Russia. This helps to explain the substantial differences in everyday life, the administrative and territorial structure and the economic and cultural development of different regions.

While the rest of Ukrainian territory was under Russian rule, present-day Bukovyna, Halychchyna and Trans-Carpathia were part of the Austro-Hungarian empire. The destinies of these three Ukrainian regions differed significantly from one another as well as from the rest of the country, despite the fact that they were all ruled by Austro-Hungary.

After the Constitution of the Austro-Hungarian empire was adopted, Bukovyna and Halychchyna obtained a certain autonomy. Halychchyna had its own “soym” or quasi-parliament, which, unfortunately, never had a Ukrainian majority due to the election law — most of the votes belonged to Poles, as they were the principal landowners in the region.

Bukovyna was proclaimed “crown land” with “voivodship” (province) status. This status defined the system of power, which consisted of a “krai” (regional) president, appointed by the government, to whom all the executive power bodies in povits (counties) were subordinate, and a form of local self-government — the “Kraiovy Soym” (regional parliament), headed by a marshal, with the Kraiovy Office as the soym executive body.

Just like in Halychchyna, the holders of the most important offices in Bukovyna were not Ukrainians, but predominantly Germans and Romanians.

Nevertheless, limited autonomy and self-government had left their impression by the time the empire collapsed.

The situation was worse in Trans-Carpathia. When Hungary’s right to autonomy and self-determination was recognised, the Trans-Carpathian region ended up completely under Hungarian rule, and even the limited autonomy of the Ukrainian population, that had been granted by the Austrian government in 1849, was revoked for Uzhhorod rayon in 1867.

Despite these developments, an active pro-Ukrainian movement had started up in all the Ukrainian territories, notably in Halychchyna and Bukovyna, before the outbreak of World War I. To begin with, this manifested itself as a cultural union, then as economic cooperation, and finally as public self-organisation and ever-increasing penetration into the official bodies of local self-government.

Meanwhile, other processes, which were, on the one hand, typical for the whole empire, but on the other, specific to different provinces, were gaining momentum in the territories that formed part of the Russian empire. The “left bank” (Ukrainian territory on the eastern side of the Dnipro River) and southern Ukraine were considered more “loyal” by tsarist Russia. For this reason, the “zemstva” (rural local assemblies) system was established there at the same time as in the “Russian” parts of the empire. By contrast, the “right bank” (lands to the west of the Dnipro) had to wait another 30 years for this privilege. In any case, the “zemstva” themselves only became real powers with real authority, resources and autonomy under the government of Pyotr Stolypin. Stolypin was a highly controversial figure, who cannot be seen in either a completely positive or completely negative light, but he was a genuine reformer who managed to introduce rapid and tangible changes.

1.2. The Stolypin reforms and their consequences

Naturally, no one would suggest reintroducing the Stolypin reforms today, but their time-proven success is a good reason to examine and attempt to understand them and make use of certain of their elements.

Early-20th-century Russia was a “colossus with feet of clay”. Despite of its vast territory and population of tens of millions, the empire was not considered a developed country, and was even incapable of feeding itself.

Under the circumstances, young ambitious states regarded Russia as a future donor of territory.

Russia needed to make a dramatic leap if it was to enter the new world and the new world economy. The need for a leader capable of implementing the necessary reforms brought that leader forward.

It must be said that Stolypin’s reforms aimed at economic modernisation would have amounted to nothing without his radical approach to the regulation of power and completion of administrative and territorial structure and local administration reforms (it is not really possible to use the term “self-government” here in the full meaning of the term).

The list of documents devised and adopted as a result of Stolypin’s efforts is really quite long and multifaceted:

-
- 1) “Main principles of the local administration system” (1906)
 - 2) “On introducing the main principles of the structure of provincial offices” (1907)
 - 3) “Main principles of transformations in zemstva and municipal social institutions” (1907)
 - 4) “Regulations on settlement administration” (1907)
 - 5) “Regulations on volost administration” (1907)
 - 6) “Regulations on state district commissars” (1907)
 - 7) “Regulations on provincial administration” (1907)

It should be noted that “zemstva” in Russia had been created by decree of Alexander II in 1864, initially for provinces and povits and then for cities. Stolypin not only gave real substance to zemstva at this level of the administrative and territorial structure, but most importantly extended self-government to the basic level of towns and volosts.

At this lowest level, two types of self-administration can be identified — town administration, which concerned self-administration in small towns; and volost administration, which operated in rural areas where there was no obvious dominant entity (i.e. a town).

In both cases, the main authority belonged to the general assembly — the gathering of a town or volost.

The following competences, important even in a modern self-governance system, fell within the remit of a town assembly:

- Election of executive bodies, the town council, members of public savings banks;
- Scrutiny of town planning decisions;
- Improvements to the town infrastructure — streets, squares, wells, bridges, etc.;
- Issuance and cancellation of permits to open liquor stores within the town boundaries;
- Establishment of financial and in-kind levies for public needs.

The assembly was convened by a “starosta” (town elder), who was responsible for implementing the assembly’s decisions, represented the town’s interests in relations with other official bodies and legal entities, oversaw expenditure on established items, imposed fines, and executed the orders of state and zemstva bodies and the decisions of provincial authorities concerning the town.

Volost administration was typical for rural areas and also typical of the times; only individuals and legal entities owning property within the volost boundaries could participate in it.

The main body of power was the volost assembly, which was made up of volost “hlasnys”, elected from different owners’ organisations, as well as the representatives of churches, monasteries and state institutions located

in the volost. The electoral system was rather complicated and based on property ownership.

The volost assembly elected a starshyna (chairman) and his assistants; defined their salaries; elected “hlasnys” to povit assemblies; were responsible for single-class elementary schools; orphanages, clinics, local roads and postal services; defined the volost levies required for public needs; and managed volost property and funds.

The starshyna executed the decisions of the assembly; had a certain policing authority, specifically concerning the detention of those found guilty of public order offences; assessed the damage caused to fields by grazing cattle and damage to agricultural equipment; kept a register of military conscripts; and collected dues and imposed fines.

A detailed description of the procedures for the creation and operation of zemstva administration bodies and the relationships between them in Stolypin’s time is beyond the scope of this study. However, this period of history is highly significant for Ukraine (as part of Russian empire) because even under the tsarist regime, with no democracy or multi-party system in place, the state, represented by Stolypin, became aware of the necessity to rid itself of inappropriate functions in the organisation and support of local life, and to delegate these functions to “zemstva” as a precursor to a system of local self-governance.

Moreover, zemstva received no subsidies from the state; they were formed and operated on the principle of self-sustainability.

In fact, volosts and towns had administrations only when they were in a position to maintain them!

To harmonise relations between state structures and the zemstva, Stolypin created a Local Administration Council, where all issues concerning government initiatives for transformations at the regional and local levels and local economies were discussed (isn’t this evocative of the Council of Regions, or the National Council on State Building and Local Self-Government and other consultative and advisory bodies set up more recently under Ukrainian presidents and prime ministers?).

Various economic councils and boards responsible for local development were formed and functioned effectively under the zemstva system. The results were impressive: zemstva budget revenues grew by 250% between 1903 and 1913!

Of course, zemstva could not and did not replace the power verticals of the state. District commissars and the Russian Ministry of Internal Affairs kept their fingers on the pulse. All state affairs were dealt with by state bodies, while the commissars could impose fines on zemstva officials if they made mistakes or exceeded their authority.

The implementation of the reforms introduced by Stolypin did not go smoothly. Even the zemstva congresses, which became more “rightist” after the 1905 Revolution, rejected a number of Stolypin’s initiatives aimed at broadening the scope of volost self-governance, free and direct elections, and so on.

Despite the opposition, however, Stolypin managed to implement genuine reforms. There was an occasion when Stolypin, trying to advance a law on zemstva in western provinces that had been rejected by the state council, managed to stop the operations of both council chambers for three days and, in the meantime, had the law passed as provisional (taking advantage of the rights the government enjoyed at the time).

Pyotr Stolypin’s energy and commitment brought tangible results, despite his opponents’ efforts. Within a short period of time, Russia became a highly dynamic country, a competitor for industrially developed European and American states. Zemstva, in their turn, became an invaluable training ground for many young politicians who came to office in Russia at that time.

Although Stolypin always remained a proponent of a “unified and indivisible Russia”, his “zemstva” policy had consequences for the “national territories” of the Russian empire as well.

It was because of the zemstva that the national politicians who led the first Ukrainian Revolution of 1917 emerged. The draft Constitution of the



Fig. 1. Map of Ukrainian provinces within the Russian empire

Ukrainian People's Republic was developed in 1918 on the basis of positive experiences acquired through zemstva — in particular their democratic nature and total disregard for property ownership status in the formation of administrative bodies.

Table 1

Ukrainian provinces within the Russian empire in 1905

Province	Population	Territory (km ²)
Volyn	3 501 600	71 736
Kyiv	4 148 900	50 957
Podillya	3 482 300	42 017
Poltava	3 263 400	49 894
Tavriya	1 602 700	60 375
Kharkiv	2 919 700	54 493
Kherson	3 215 700	70 799
Chernihiv	2 693 800	52 396

Interim conclusions

The formation and reformation of the administrative and territorial structure in Ukrainian regions, which in the late 19th to early 20th century were parts of different countries, came as the result of important objective factors: the abolition of serfdom and subsequent creation of a capitalist market economy; the inability of the state to exercise total management and control over the multitude of economic players that sprang up all over its territories; the desire of the state to reduce the new economic actors' discontent with the bureaucratic obstacles that hindered their development and prevented them from extending their influence at local level, thus affecting their businesses and prosperity. These factors, which were common to both the empires that ruled in Ukraine, were supplemented by Austria-Hungary's vulnerability to nationalist movements, which created an impetus for autonomy in some areas within the empire, including in the Ukrainian territories.

1.3. Transformations in the administrative and territorial structure of Ukraine in the post-revolutionary and pre-war years

Changes in approaches to the administrative and territorial structure and system of power in the "Soviet" part of Ukraine; an attempt to comprehend the changes — the causes and consequences of the reforms. Elimination of the national component in naming.

In lieu of an introduction

It is fairly difficult to analyse Ukrainian history between 1917 and 1919, since no single power governed the whole of the country's territory during this period, and in different regions at different times various rulers, predominantly of a military nature, held sway.

The situation preceding the proclamation of the Ukrainian People's Republic in 1917 was complex in the extreme. In the summer of that year, three parallel power structures were in operation in Ukrainian territory: representatives of the Russian Provisional Government — provincial commissars and the administrations and troops subordinate to them; the Central Rada (Central Council), which was trying to build up Ukrainian power, and its executive bodies; and the "Council of Workers' and Soldiers' Deputies", which was under the influence of the Bolsheviks and did not see the opportunity to create a Ukrainian state.

At the same time, military units at the Russian-German-Austrian front were spontaneously becoming "Ukrainianised".

The collapse of the front in the Carpathian Mountains and the total anarchy that spread throughout Ukraine in July 1917 accelerated the final disintegration of any system of central power in Ukrainian territories.

After the Provisional Government was overthrown in Russia, Kyiv again faced a warring triumvirate of power: the Ukrainian Central Rada with its Secretariat General as the pro-Ukrainian state authority; the Council of Workers' and Soldiers' Deputies as the cosmopolitan Bolshevik force; and the headquarters of Kyiv military district as the anti-Ukrainian and anti-Bolshevik force.

After the fall of the Ukrainian People's Republic, Hetmanate and Directory, Soviet power was established in Ukraine in 1919. A revision of the administrative and territorial structure that had been put in place during the final pre-revolutionary years started immediately.

After the Bolsheviks' triumph in Ukraine and across Russia, the period of "all-powerful soviets" began. Soviets (councils) were set up everywhere, corresponding to established territorial divisions or regardless of them.

Councils of soldiers' deputies, of peasants' deputies, and workers' and soldiers' deputies came into being.

The clear and simple system of the administrative and territorial structure, state administration and local self-government that had been introduced by Stolypin was destroyed.

In rural areas, where the majority of the population lived, village councils were set up in huge numbers. Volosts, as the primary link in the state power structure for rural areas, based on church parishes and local economic ties to the church, market, and volost offices in a town or large cen-

tral village, were de facto destroyed by the village councils, although de jure they continued to exist for some time¹.

1.3.1. Early stages in legalising administrative and territorial structure reforms in Ukraine in the 1920s

Efforts to establish Soviet power in Ukraine as part of the USSR immediately ran into the problem of setting up an efficient administrative system with a strictly defined territorial basis.

From 1919, when private property was completely nationalised, War Communism was declared and revolutionary expediency totally prevailed over economics and the rule of law, the system of state administration and self-government (if village councils can be described as such) was based exclusively on the use of force and fear of Chekist reprisals. A person armed with a revolver and a mandate had the casting vote in all matters. Such a system of power could not last for a long time though. From 1921, Ukraine, like all the other former Russian territories, faced the problems of famine and partial or total shortages of basic commodities.

In order to resolve these problems, the New Economic Policy (NEP) was introduced. Among other things, the NEP envisaged restoring private property and individual entrepreneurship, as well as attracting foreign investment into the Soviet economy in the form of concessions.

However, the Soviet military machine, which had expanded during the years of War Communism to permeate all areas of economic life and all territorial units from village to province, came into conflict with the New Economic Policy.

It should be noted that the collapse of the pre-revolutionary administrative and territorial structure was initiated by the Bolsheviks — the newly formed povit executive committees and provincial executive committees started to establish new volosts and village councils at their own discretion.

¹ *How Big Lexicon of Ukrainian Language defines “volost”:*

Volost’ — administrative unit of lower level in Eastern Europe.

1. **Under Rus** — administrative-territorial unit subordinate to prince or church authority. Was set up in small principalities, after the princes’ authority was banned and replaced by volost’ governors appointed by grand prince. It was a rural half-autonomy subordinate to volost’ chancellery (uprava).

2. **Under Grand Duchy of Lithuania and Rzeczpospolita** — a lower **administrative-territorial unit**, povit subdivision made out of several villages subordinate to volost’ chancellery (uprava).

3. **Under Russian empire** and Soviet Russia — a lower **administrative-territorial unit**, povit subdivision, and starting **1861** — a unit of territorial village self-government. Was liquidated in the course of administrative-territorial reform of **1922—1923**.

4. **In Russian Federation** — administrative-territorial unit, part of a raion (“povit” under empire).

5. **In Estonia** — rural administrative-territorial unit, povit part. In Latvia — raion part.

The growing bureaucratic apparatus, which performed certain functions in requisitioning grain under the state procurement system, became a serious hindrance to economic growth under the NEP.

The decree of the People's Commissariat of Internal Affairs "On new administrative units" of June 26, 1920 was the first attempt to halt the process of administrative and territorial fragmentation. Under this decree, any newly formed territorial units — volosts or povits — were only legally recognised after their formation was approved by the People's Commissariat of Internal Affairs and the decision was published in the press. Before that happened, it was prohibited to grant any loans or funds to these units.

Nevertheless, even this menacing decree failed in its mission.

The situation had to be taken under control, and a decision was quickly made.

Without much ado, on February 21, 1922 the first document issued by the All-Ukrainian Central Executive Committee (AUCEC) "On the administrative and territorial division of Ukraine" appeared, and is quoted here in full:

"On the administrative and territorial division of Ukraine"

Faults in the administrative and territorial division of Ukraine, which manifested themselves in the uneven distribution of the territory between separate administrative-territorial units and in a lack of characteristics of an economic inclination, resulted after the revolution in a spontaneous desire to replace the existing administrative division with one more suited to the new circumstances and the demands of economic activity in different parts of the country.

In order to organise work aimed at changing the administrative division under a uniform plan based on scientific data and economic factors and to complete it as soon as possible, the AUCEC has decided:

1. To prohibit provincial executive committees and povit executive committees from introducing any changes in the administrative division until the end of the division of Ukraine into rayons.

2. To charge the People's Commissariat of Internal Affairs with the task of developing and submitting to AUCEC Session II such a plan for the territorial division of Ukraine into rayons based on scientific data and economic factors and inclinations, and also of reducing the number of existing administrative-territorial units.

This task has the force of an order, and all central agencies and organs of local power are obliged to render all possible assistance to the People's Commissariat of Internal Affairs to expedite completion of this work, both by providing all required information and materials and by directly participating in the work.

City of Kharkiv, February 1, 1922

Deputy Head of All-Ukrainian Central Executive Committee
A. Ivanov
AUCEC Secretary U. Yermoshchenko»

After filtering out the archaic spelling and obsolete terms used in the original document, one is left with the impression that it was written in our time. The problems Ukraine is facing today due to imperfections in the administrative and territorial structure are spelt out very clearly in the resolution of the AUCEC.

It must be pointed out, however, that the goals set out in the resolution were achieved very quickly, but, as often happens, not as precisely as had been envisioned.

In 1922 and 1923, the administrative and territorial structure changed rapidly — some provinces were liquidated, some were enlarged (merged with others), volosts and povits were switched from one province's jurisdiction to another (incidentally, some volosts in Homel province were transferred to the jurisdiction of Kyiv province by decision of the AUCEC).

To somehow streamline the process, AUCEC Session III on October 15, 1922, passed the following resolution, which contains general requirements for the newly formed administrative-territorial units:

“On the administrative and territorial division of the Ukrainian SSR and simplification of the council apparatus”

... 1. To adopt main principles for the administrative and territorial division of the Ukrainian SSR, namely:

a) to recognise the three-tier system of administrative and territorial division as more perfect, but, taking into consideration political and technical factors hindering the immediate implementation of the reform, to implement it gradually;

b) to establish territories of rural administrative units with populations of not less than 1,000 persons, Soviet volost units (rayons) from 25,000 to 40,000 persons, and uyezd units (districts) from 400,000 to 600,000 persons».

On March 21, 1923, another resolution opening the way to the formation of bodies of power in the newly created administrative-territorial units was passed, with the title “On the procedure of setting up executive committees in the newly formed districts, rayons, and village units”.

In fact, these two documents laid the foundations for the big reform of 1922–1923, under which Ukraine moved from the old, time-tested administrative and territorial system to the new Soviet one.

The main innovation of the reform consisted of giving legal force to the introduction of village councils. However, in order to avoid excessive fragmentation of the primary units, a restriction on the population size of each unit was introduced. The traditional volosts, which under the empire had had the status of the grass-roots administrative-territorial units, were renamed “rayons” and became an intermediate administrative level, while large provinces were replaced by districts (“okruhs”). On the one hand, this structure gave the state more rigid control over all processes in the territories, and on the other, helped put a stop to the uncontrolled fragmentation of administrative-territorial units, which was hindering economic development and making it more complicated for the authorities to operate in such small units.

1.3.2. Transformations in the administrative and territorial structure of Ukraine in the 1930s

The abolition of districts (“okruhs”); the switch to a two-tier administrative system; the rayon as the main unit in the socialist reconstruction of the countryside; the reorganisation of Ukrainian SSR rayons and creation of new oblasts.

The reorganisation and abolition of districts and switch to a two-tier administrative system; the rayon as the main unit in the socialist reconstruction of the countryside

The Soviet authorities, notwithstanding their unlimited power and the hyper-centralisation of the whole of public life, constantly struggled with administrative inefficiency. No effective replacement was found for the former, now defunct, system of administrative and territorial division with its distribution of powers between state and local (self-governing) levels. On the one hand, abolishing the provinces and forming a large number of districts was supposed to increase state control over all the territories; however, the excessive number of subjects dealing directly with the centre did not strengthen central power — on the contrary, it weakened it, as the centre continually had to deal with a range of issues that had previously been handled by the provinces.

On the other hand, the village councils, even after restructuring, remained too weak both financially and organisationally to resolve the issues for which they were responsible.

Therefore, the Soviet authorities kept experimenting, searching for a new administrative and territorial system that was suited to the new conditions, with optimum efficiency in the exercise of local power and resource-saving reductions in the bureaucratic apparatus.

“...in order to implement directives on bringing the organs of Soviet power closer to the working masses, to improve the economic situation in the districts and rayons and to further reduce expenditure on the

upkeep of the administrative apparatus ...” from Resolution № 141 «On the reorganisation of districts in the Ukrainian SSR” of June 13, 1930. With this resolution, the AUCEC and the Council of People’s Commissars of the Ukrainian SSR continued to build a Soviet model of the administrative and territorial structure of the Ukrainian SSR by dissolving 11 districts and adding their territory to other districts. Thus, the number of districts was reduced, while the size of those that remained increased accordingly.

New administrative bodies were formed in the newly enlarged districts. Appreciating both the importance of reform and the need to mitigate any discontent among the large number of officials who had lost their positions in the dissolved councils, the resolution laid down a fairly liberal procedure for setting up the new bodies:

“6. The governing bodies of new districts that incorporate the territory of dissolved districts are set up in the following order:

1.) In districts created by incorporating one or more dissolved districts, the new district executive committee is composed of all the members and candidate members of the district executive committees of the merged districts; the new presidium of this district executive committee is elected by the joint plenum of these district executive committees without any increase in the number of its members, in accordance with the Law on district executive committees.”

In districts where the territory had been divided between several other districts, the district executive committees were disbanded, but elected officials kept their offices and took part in the plenums of the committees in the locations where they had been elected.

Only the military commissariats in the dissolved districts remained unchanged and did not undergo restructuring “until special order” of the Central Liquidation Commission.

Cities that had been the centres of the dissolved districts retained their city councils with their competences defined by the “Law on city councils”, in order to preserve their economic and cultural level as well as city salary rates. City councils were accountable directly to the district executive committees.

When considering the permanent changes in the administrative and territorial structure in the 1930s, one should bear in mind that at the same time the Soviet authorities had launched a new global experiment in transforming economic relations in rural areas. Mass collectivisation had begun in Ukraine.

The first collectivisation attempts in the late 1920s showed that the village councils, despite having been “strengthened” with officials from fraternal Russia, were not firm enough in implementing the policy of the party and the Soviet Union on collectivisation.

Nevertheless, collectivisation was to be carried out at any cost. Moreover, any serious opposition on the part of the local population was to be avoided.

Within the context of this specific historical situation, one can quite confidently assume that the new revision of the administrative and territorial structure in Ukraine and the building of a two-tier system with rigid state centralisation was brought about by the needs of collectivisation, just as the earlier revision had resulted from the requirements of War Communism.

Although this approach was formally supported by the slogan “Bringing Soviet power closer to the working masses, strengthening rayons as the main unit in the socialist reconstruction of the countryside,” it in fact became the main cause of the **abolition of districts and the transition to the two-tier administrative system**.

Resolution № 225 “*On the abolition of districts and transition to a two-tier administrative system*” of September 2, 1930, established 503 separate administrative-territorial units, namely:

1. The Moldavian Autonomous Soviet Socialist Republic, composed of 11 rayons

2. 18 cities, subordinate to the centre

3. 484 rayons, divided into three categories according to economic characteristics, size of population, prospects for growth, etc. (first category — 322 rayons, second category — 112, third category — 50)

Along with the strict division of territories and their place in the hierarchy, and linked in with the transition to the two-tier administrative system, the resolution approved changes to the administrative and territorial division. These changes included subordinating village councils to city councils and adjoining rural areas to cities; reorganising rayons; and granting rayon executive committees the competences of district executive committees. The resolution stipulated the subordination to the centre of rayon executive committees and city councils, which were given the status of separate administrative-economic units. From the original document:

«4. *To establish a two-tier administrative system on the territory of the Ukrainian Socialist Soviet Republic in order that rayon executive committees and city councils, transformed into separate administrative-economic units, shall be directly subordinate to the centre.*”

At the same time, Resolution № 48 “On the abolition of districts and current tasks of city councils, rayon executive committees and village councils” of December 28, 1930, AUCEC Session III (XI Convocation), while highlighting all the advantages and the effectiveness of the two-tier administrative system, pointed out a number of errors made in the process of implementing the reforms and obliged the Ukrainian govern-

ment to fulfill a number of “urgent tasks” to bring the reforms to fruition, with particular emphasis placed on the need to set up community and village courts.

The reorganisation of rayons in the Ukrainian SSR and the creation of new oblasts

The introduction of the two-tier administrative and territorial structure within the shortest time possible contributed to accelerating collectivisation in Ukraine in the 1930s and suppressing outcries from dissatisfied peasants, but it turned out to be extremely harmful to the effectiveness of the administration of Ukrainian territory as a whole. While trying to reduce the size of the state apparatus, the Soviet authorities were at the same time expanding it at the national level, as a whole range of unresolved local issues ended up in the capital. Provinces, as intermediary links where these issues were filtered and mostly resolved, had been abolished, and nothing had been set up to replace them. As a result, development planning for the territories also moved up to the level of the capital.

In this situation, the central authorities had no alternative but to initiate further changes.

Seven new administrative and territorial formations were set up in Ukraine in 1932. Resolution № 28 “On creating oblast executive committees on the territory of the Ukrainian Socialist Soviet Republic” (the name was later changed to “On creating oblasts”) of February 11, 1932, established five new oblasts, in addition to the Moldavian Autonomous Soviet Socialist Republic (ASSR), on the territory of Ukraine:

1. Kharkiv, composed of 82 administrative-territorial units (ATUs), i.e. rayons and cities, distinguished as separate administrative-economic units;
2. Kyiv, composed of 100 ATUs;
3. Vinnytsia, composed of 71 ATUs;
4. Dnipropetrovsk, composed of 54 ATUs;
5. Odesa, composed of 50 ATUs.

In the newly formed oblasts, city councils, which had previously been directly subordinate to the centre, now became subordinate directly to the oblast executive committees.

Industrial areas of Donbass (13 rayons and 4 cities) remained subordinate directly to the centre, while new village councils and rayons were attached to the city councils with the aim of “strengthening the agricultural base in Donbas’s main industrial areas” (Resolution № 28).

Interestingly, the Addendum to Resolution № 28 — “*List of administrative-territorial units within the oblasts and administrative-territorial units in Donbass to be directly subordinate to the centre*” — con-

tained, alongside the actual names of the rayons and districts, information on their ethnic make-up. For example:

- I. Kharkiv oblast: 77 rayons. Chuhuyiv (nationality Russian);
- V. Odesa oblast: 9 rayons. Blahoyiv (nationality Bulgarian);
- IV. Dnipropetrovsk oblast: 41 rayons. Stalindorf (Izluch.), (nationality Jewish).

This testifies to the fact that these rayons were so-called “national” ones — areas where the density of a national minority population gave it the theoretical right to a certain “national-administrative” autonomy.

Resolution № 138 “*On the creation of Donetsk oblast*” of July 2, 1932, formed a new oblast consisting of 12 city councils and 23 rayons, including 13 rayons from Kharkiv oblast and 5 rayons from Dnipropetrovsk oblast’.

Resolution № 170 “*On the creation of Chernihiv oblast*” of October 15, 1932, set up a new oblast of 36 rayons (29 from Kyiv oblast and 7 from Kharkiv oblast). The same resolution moved seven rayons from Vinnytsia to Kyiv oblast and two rayons from Kyiv to Kharkiv oblast.

Over the next three years, other changes were made to the number of rayons in the newly created oblasts, as well as to rayon and oblast boundaries.

On January 22, 1935, Resolution № 12 “*On dividing rayons of the Ukrainian SSR into smaller units*” was passed, establishing a number of new administrative-territorial units. It also specifically identified the number and names of the rayons and city councils that were directly subordinate to the centre.

Table 2

Changes made to the oblast structure 1932–1935

№	<i>Resolution № 28 “On creating oblast executive committees on the territory of the Ukrainian SSR” of February 11, 1932</i>	Cities subordinate to the <u>centre</u>	Cities subordinate to the <u>oblast</u>	Number of rayons	Total
1	Moldavian ASSR	No change			
2	Kharkiv	-	4	78	82
3	Kyiv	-	2	98	100
4	Vinnytsia	-	2	69	71
5	Dnipropetrovsk	-	4	50	54
6	Odesa	-	4	46	50
7	Administrative-territorial units in Donbass	4	-	13	17

Table 3

№	Resolution № 12 “On dividing rayons of the Ukrainian SSR into smaller units” of January 22, 1935	City councils subordinate to the centre	Cities (city councils) subordinate to the oblast	Number of rayons	Total
1	Moldavian ASSR	1	-	13	14
2	Kharkiv	-	4	83	87
3	Kyiv	-	2	93	95
4	Vinnytsia	-	4	76	80
5	Dnipropetrovsk	-	5	58	63
6	Odesa	-	4	70	74
7	Donetsk	-	13	38	51
8	Chernihiv	-	1	56	-

However, less than a month after passing Resolution № 12, on 11 February, 1935, the AUCEC passed another resolution, symbolically numbered 13, “*On the composition of new administrative rayons in the Moldavian Autonomous Soviet Socialist Republic*”, “elaborating on its own resolution of January 22, 1935 ‘On dividing rayons of the Ukrainian SSR into smaller units’”, which decreed the break-up of the territories of three rayons in the Moldavian ASSR to create three new rayons.

Looking at all the changes related to the reorganisation of rayons in order to improve the oblast structure as a whole, one can see that, on the average, an administrative-territorial unit underwent changes (to its name, boundaries, or structure, or with an increase or decrease in the number of rayons) at least twice a year.

For the Soviet authorities, the newly formed oblasts turned out to be too big. In fact, right after their establishment, new administrative-territorial units — districts — came into being on their territories.

The Central Executive Committee of the Ukrainian SSR, despite having lauded the effectiveness of the two-tier administrative system, the strengthening of rayon as the basic unit in the reconstruction of the countryside, and so forth, passed two more resolutions in 1935:

1. “*On the formation of districts in Kyiv and Vinnytsia oblasts*”, Resolution № 58 of May 4, 1935.

Under this resolution, two districts were set up on the territory of Kyiv oblast:

- Korosten’ district, consisting of 9 rayons;
- Novohrad-Volyn district, consisting of 6 rayons;

In Vinnytsia oblast, four districts were formed:

- Kamyanets-Podilsky district, consisting of 9 rayons;

-
- Mohylev-Podilsky district, consisting of 6 rayons;
 - Proskuriv district, consisting of 9 rayons;
 - Shepetivka district, consisting of 10 rayons;

The executive committees of the two oblasts were in charge of setting up the districts.

2. “*On the procedure for creating organs of Soviet power in the newly formed districts*” Resolution № 74 of June 1, 1935.

Along with a list of the members of the organising committee for preparing district congresses, the resolution addressed the procedure and dates for electing delegates to these congresses. In accordance with the Ukrainian Constitution, delegates from cities were to be elected by plenary sessions of the city councils, and delegates from rural areas — by village council plenary sessions.

Adhering to existing traditions, the resolution abolished the rayon executive committees and subordinated the territories and village councils of the liquidated rayons to city councils, **while city councils of all district centres became subordinate to district executive committees.**

Interim conclusions

A thorough and detailed exploration of the dynamics of changes to the administrative and territorial structure of Ukraine during the pre-war period is outside the scope of the current study. However, the overall tendency of the changes can be summarised as follows:

The new “Soviet state”, having destroyed the administrative and territorial structure in force under the Russian empire, frantically searched for its own model of the spatial organisation of power, attempting to quickly introduce amendments to the administrative and territorial structure to correspond to each new global task it faced.

After several completely chaotic transformations, the administrative and territorial structure of pre-war Ukraine returned to something close to the pre-revolutionary model: oblast, rayon, and city/village councils. There was no distribution of competences between state and self-governed bodies, however, as all the organs of power, local councils included, became bodies of state power.

1.4. Administrative and territorial changes in the years 1959–1964. Abolition and enlargement of rayons and oblasts, creation of industrial rayons, enlargement of village rayons

The period 1959–1964 was characterised by dramatic changes in all spheres of life in the Soviet Union, and, therefore, of the Ukrainian SSR.

After Stalin's death, the dismantling of the "cult of personality" and Nikita Khrushchov's rise to power, a new concept emerged in the USSR — "catching up and overtaking America".

In pursuing this idea, the state leadership introduced more and more new reforms. Any substantial reforms linked to changes in the economic system of a country require changes in the administrative system as well, and these changes, in turn, affect the administrative and territorial structure.

After the war, the administrative and territorial structure of Ukraine continued to change, although no systematic transformations took place. The number of rayons and village councils increased, primarily due to the setting up of small rayons and village councils in western Ukraine, which became centres of the struggle against the OUN-UPA nationalist underground as they provided bases for the Ministry of State Security and other bodies to establish control over the local population.

Thus, by 1946 there were 750 rayons and 16,435 village councils in Ukraine. These numbers were too high for the country, which is why the late 1950s saw the beginning of a great administrative and territorial reform. This, however, was not properly prepared and therefore proved incapable of achieving its goals. After Khrushchov's dismissal and the termination of his experiments in dividing the state along economic lines and territorially-based economic development planning, the administrative and territorial changes implemented under his leadership were, for the most part, annulled.

For a better understanding of the changes in question, let us first have a look at the figures. During this period, the following changes occurred in Ukraine:

- 1959 — 28 rayons abolished, 6 enlarged, 1 rayon replaced in Odesa oblast (№ 49), Drohobych oblast abolished (Decree № 111 of the Presidium of the Verkhovna Rada of the Ukrainian SSR), 4 village councils transferred from one oblast to another.

All the territories of the liquidated rayons were distributed between other rayons within the oblast boundaries. To avoid going into all the details of liquidation processes in Soviet Ukraine, we shall look only at the process of transferring village councils to other oblasts, which in turn led to the changes in the oblast structure, and at the fragmentation of Drohobych oblast.

So, the territory of Drohobych oblast became part of Lviv oblast. The Presidium of the Verkhovna Rada of the Ukrainian SSR in its Decree № 111 of May 21, 1959, established the procedure for transferring Drohobych oblast industrial enterprises from Stanislav regional economic council to Lviv regional economic council and for the handover of Drohobych oblast documents and records to Lviv oblast.

Presidium of the Verkhovna Rada of the Ukrainian SSR Decree № 117 of June 25, 1959, transferred two village councils from Derazhnyanka rayon in Khmelnytskyi oblast to Bar rayon in Vinnytsia oblast.

Presidium of the Verkhovna Rada of the Ukrainian SSR Decree № 119 of July 10, 1959, transferred three village councils from Okhtyrka rayon in Sumy oblast to Zinkiv rayon in Poltava oblast.

Further decrees give the reason for transferring village councils as “*motions from the population, supported by rayon and oblast organisations*”. Thus, Presidium of the Verkhovna Rada of the Ukrainian SSR Decree № 184 of December 30, 1959, transferred Vólivka village council in Chechelnik rayon, Vinnytsia oblast, to Balta rayon, Odesa oblast; Decree № 185 of December

30, 1959, transferred Pastyrka village council together with Novo-Myrhorod rayon in Cherkasy oblast to Novo-Myrhorod rayon in Kirovohrad oblast.

- 1960–1964 — 4 rayons abolished, 1 enlarged, 9 renamed; 13 village councils transferred from one oblast to another; 1 oblast and oblast centre renamed (Decree № 262 of November 9, 1962, “*On renaming the city of Stanislav and Stanislav oblast*”).

Creation of industrial rayons, enlargement of agricultural rayons

The policy of “catching up and overtaking” ushered in another administrative novelty — the creation of parallel oblast councils based on the “sector principle”. This idea was in fact implemented on public initiative.

To ensure “*even broader participation of the masses in public administration and further improvements in state economic management*”, Presidium of the Verkhovna Rada of the Ukrainian SSR Decree № 29 of December 30, 1962, “*On creating oblast (industrial) and oblast (agricultural) councils of people’s deputies of the Ukrainian SSR*”, proclaimed the setting up of these councils and their executive committees according to production principles in the following oblasts: Vinnytsia, Dnipropetrovsk, Donetsk, Zhytomyr, Zaporizhia, Kyiv, Kirovohrad, Crimea, Luhansk, Lviv, Mykolaiv, Odesa, Poltava, Sumy, Kharkiv, Khmelnytsky, Cherkasy and Chernihiv. In Volyn, Zakarpattia, Ivano-Frankivsk, Rivne, Ternopil and Chernivtsi oblasts, the former oblast Councils of people’s deputies and their executive committees were retained.

Presidium of the Verkhovna Rada of the Ukrainian SSR Decree № 30 of December 30, 1962, “*On creating industrial rayons and granting certain cities in the republic the status of cities of oblast subordination*”, set up two rayons: **Poliske**, in Kyiv oblast, with the town of the same name

as its centre, and **Verkhovyna** rayon, in Ivano-Frankivsk oblast, with its centre in the town of Verkhovyna.

Presidium of the Verkhovna Rada of the Ukrainian SSR Decree № 35 of December 30, 1962, “*On enlargement of the agricultural rayons of the Ukrainian SSR*”, provided for the enlargement of rural rayons in the Ukrainian SSR to the size of collective and state farm production departments; instead of the previously existing rayons, 231 rayons were now formed.

However, on January 4, 1965, Presidium of the Verkhovna Rada of the Ukrainian SSR Decree № 64 “*On introducing changes into the administrative division of the Ukrainian SSR*”, in connection with the merger of the industrial and agricultural oblast councils of people’s deputies in Ukraine, and taking into consideration proposals on reducing the size of rayons, created 393 rayons.

The following table makes the changes clear:

Table 4

№	Oblast	Number of rayons Decree № 35 of the Presidium of the Verkhovna Rada (Supreme Council) of the Ukrainian SSR	Number of rayons Decree № 64 of the Presidium the Verkhovna Rada of the Ukrainian SSR	Number of rayons as of 02.04.2009
1	Vynnytsia	13	19	27
2	Volyn	7	12	16
3	Dnipropetrovsk	12	20	22
4	Donetsk	9	15	18
5	Zhytomyr	11	16	23
6	Zakarpattia	5	11	13
7	Zaporizhia	10	17	20
8	Ivano-Frankivsk	6	12	14
9	Kyiv	12	19	25
10	Kirovohrad	12	18	21
11	Krym/ARC	10	12	14
12	Luhansk	9	15	18
13	Lviv	11	16	20
14	Mykolaiv	9	16	19
15	Odesa	14	20	26
16	Poltava	14	19	25
17	Rivne	7	12	16
18	Sumy	10	16	18
19	Ternopil	9	14	17
20	Kharkiv	13	20	27

№	Oblast	Number of rayons Decree № 35 of the Presidium of the Verkhovna Rada (Supreme Council) of the Ukrainian SSR	Number of rayons Decree № 64 of the Presidium the Verkhovna Rada of the Ukrainian SSR	Number of rayons as of 02.04.2009
21	Kherson	10	15	18
22	Khmelnyskyi	10	16	20
23	Cherkasy	10	16	20
24	Chernivtsi	6	9	11
25	Chernihiv	12	18	22
26	TOTAL	231	393	490

The Presidium of the Verkhovna Rada of the Ukrainian SSR's Decree of December 1, 1964, *"On merging oblast industrial and oblast agricultural councils of people's deputies of the Ukrainian SSR"* cancelled Decree № 30 of December 30, 1962, *"On creating industrial rayons and granting certain cities in the republic the status of cities of oblast subordination"* and created unified oblast councils of people's deputies in Vinnytsia, Dnipropetrovsk, Donetsk, Zhytomyr, Zaporizhia, Kyiv, Kirovohrad, Crimea, Luhansk, Lviv, Mykolaiv, Odesa, Poltava, Sumy, Kharkiv, Khmelnisty, Cherkasy and Chernihiv oblasts.

The Presidium of the Verkhovna Rada of the Ukrainian SSR's Decree "On the procedure for naming and renaming oblasts, rayons, cities and other populated areas, and on addressing issues of the administrative and territorial division of the Ukrainian SSR" established that the naming and renaming of oblasts, rayons, cities, villages and towns was to be carried out by the Presidium of the Verkhovna Rada of the Ukrainian SSR upon receiving proposals, submitted by the executive committees of oblast councils and city councils (for cities of republican subordination) of people's deputies. The renaming of locations with post offices, telegraph offices or railway stations was to be performed by the Presidium of the Verkhovna Rada with advance notice provided to the Communications Ministry of the USSR or the Railways Ministry of the USSR respectively.

The naming and renaming of oblasts, rayons, cities, villages and towns was to be carried out taking into consideration geographic, historical, local environmental and other conditions as well as residents' wishes. Villages and towns were not allowed to be given names that already existed within the oblast, while cities and rayons could not be given names that already existed within the republic.

The executive committees of oblast councils and city councils (for cities of republican subordination) of people's deputies were responsible

for implementing changes in rayon boundaries due to the transfer of the territory of a village council or other populated area to a different rayon or a change in city council subordination within an oblast's boundaries; transferring localities to the "urban town" category and changing their boundaries; creating new village councils and merging and abolishing existing ones, identifying and moving their administrative centres and subsequently naming and renaming the councils; and merging rural localities and excluding data on the villages and towns thus affected from the records. Decisions of the oblast and city council executive committees came into force ten days after the respective information was published in "Vidomosti Verkhovnoi Rady URSR" ("The Gazette of the Verkhovna Rada of the Ukrainian SSR").

An addendum to the decree stipulated that all populated areas in Ukraine fell into one of two categories — urban or rural, and registration as such was to be carried out by the executive committee of the respective council.

Cities of republican, oblast or rayon subordination and urban towns came under the category of urban populated areas, while villages and rural towns were classified as rural populated areas.

Cities of republican subordination were defined as those with a population of over 500,000.

Cities with a population of over 50,000 were classified as cities of oblast subordination. In certain cases, however, the number of residents could be less than 50,000 if the city in question was of substantial industrial, cultural and political significance and had the potential for further economic growth.

Towns with a population of not less than 10,000, with a majority of those being workers, public servants and their families, qualified as cities of rayon subordination.

Populated areas located around industrial enterprises, construction sites, railway terminals, hydro-technical structures, sanatoriums and other in-patient clinics and spas were classified as urban towns if they had the appropriate infrastructure and over 2,000 residents, with workers, public servants and their families constituting not less than 60%.

All other populated areas that were not classified as cities or urban towns were, regardless of their administrative subordination, considered to be rural localities — villages or towns.

Interim conclusions

The administrative and territorial reforms carried out in the late 1950s and early 1960s, although not implemented in their entirety, significantly reduced the number of administrative-territorial units and attempted to

create the foundations for regional economic development planning with the participation and accountability of local leaders. Alongside the positive achievements, these reforms revealed the voluntarism of the authoritarian regime, which, in setting up agricultural and industrial councils, violated in practice the principle of uniformity of jurisdiction in the operation of local self-government bodies (i.e. oblast and rayon councils) without producing any beneficial results.

SECTION 2. THE CONSTITUTIONAL BASIS OF THE ADMINISTRATIVE AND TERRITORIAL STRUCTURE

2.1. The administrative and territorial structure and the powers of regional and local authorities as defined by the constitutions of the Ukrainian People's Republic and the Ukrainian SSR in the years 1918– 1996

In this section, we will examine the experience of constitutional regulation of the system of administrative and territorial division and the organisation of power at the state and local levels as stipulated by the constitutions that were in force on the territory of modern Ukraine, from the Constitution of the Ukrainian People's Republic (UNR) of 1918 to the final Ukrainian SSR Constitution of 1978. The latter was significantly amended during the period 1990–1996 and was gradually transformed into the Constitution of independent Ukraine.

Naturally, each of the constitutions under discussion has its own peculiarities that may be difficult to understand from a modern perspective. Why was this or that law formulated in that way? To answer this question one should bear in mind that each of these documents was adopted during a particular historical period and therefore reflects its specific conditions.

The question may arise — why go back over those distant events now, when we are living in a very different world?

Our belief is that without analyzing the past, without understanding the connection between constitutional regulation and the economic and political situation in any given period, it is not possible to find the answers we need now.

2.1.1. The administrative and territorial structure and the structure of power that was to be built under the 1918 UNR Constitution

The UNR Constitution of 1918, which unfortunately never came into force in Ukraine, was in fact a great achievement of the country's constitutional science and can serve as an example of how our ancestors, even under the horrendous conditions of Bolshevik intervention, total devastation and all-out war, were able to develop a unique document.

It is a pity that this document was never given due appreciation or used in the process of constitution-building either in Soviet Ukraine or, later, in independent Ukraine.

While debates on the need for the rational decentralisation of power continue in contemporary Ukraine, prompted by the fact that a government dealing with everything is incapable of devising a single strategic document, Ukrainian deputies back in 1918 developed important principles that could be used today.

Decentralisation of authority and the administrative and territorial structure

The UNR Constitution begins with a series of important principles, one of which is as follows:

“Without violating the integrity of its power, the UNR grants its lands, volosts and communities the right to broad self-government, in adherence to the principles of decentralisation”.

In this brief formula the entire administrative and territorial structure of the country is instantly made clear: land — volost — community and the state’s desire to decentralise its power, without breaking the unity of state authority or the unitary nature of the state.

Distribution of power and the independence of organs of power

The UNR Constitution set out the classical distribution of state power into its component parts: legislative, executive, and judicial.

“23. The highest organ of power of the UNR is the National Assembly, which directly exercises supreme legislative power in the UNR and forms the organs of executive and judicial power in the UNR.

24. Supreme executive power in the UNR belongs to the Council of People’s Ministers.

25. The highest judicial body is the General Court of the UNR.

51. The Council of People’s Ministers derives its authority from the National Assembly and is accountable to it only”.

Parliament

Parliament — the National Assembly, as the sole legislative body of the state, in contrast to the Soviet constitutions, has no executive functions. The constitution sets out detailed regulations for the operation of parliament and spells out its major functions — to form the executive and the courts and to pass laws. In addition, it contains some important provisions that are essential to European democracies:

«44. Without decision of the National Assembly, no taxes may be imposed.

45. Without decision of the National Assembly, no loans may be taken out by the UNR and no tax imposed on state property .

46. Citizens of Ukraine cannot be compelled to serve in the army or militia other than by decision of the National Assembly.

47. War cannot be declared nor a treaty signed in the UNR's name without decision of the National Assembly's. For a war to be declared, the decision of two-thirds of the members of the National Assembly who are present is required”.

Government

Being a rather laconic document, the UNR Constitution serves as a model of short but highly meaningful provisions. In fact, the norms set out in the constitution provide for the inclusion of detailed descriptions of regulations in laws, proceeding from the specific public needs and conditions of the time, without violating the philosophy of the constitution, which calls for a democratic mode of government.

It is also noteworthy that the UNR Constitution specifies that the principle of distributing competences to the government shall be in terms of those competences that do not belong to local authorities!

“50. As the highest executive power in the UNR, the Council of People's Ministers administers all affairs which are outside the terms of reference of local self-government institutions or those that are of significance to the whole UNR; coordinates and supervises the activity of those institutions, without infringing upon their competences as stipulated by law, and provides assistance to them at their request.”

Local power

The legal regulation of the organisation of local power found in the UNR Constitution is really quite unique. In short, it contains all the provisions necessary for building genuinely capable and accountable local self-government.

“26. All types of local affairs are administered by the elected Councils and Boards in the communities, volosts and lands. Local authority belongs completely and directly to them: UNR ministers only supervise and coordinate their activities (paragraph 50), directly and through appointed officials, without interfering in their operations, whilst all disputes that arise are resolved by the Court of the Ukrainian People's Republic (paragraphs 60–68).”

A comprehensive analysis of this paragraph allows the following summary to be made:

1) All local affairs fall under the jurisdiction of the local authorities — councils and boards.

2) Elected bodies (councils), which appoint their own executive bodies (boards), operate at all levels of the administrative and territorial structure — communities, volosts and lands.

3) Local authorities have independence in resolving local issues.

4) Central government cannot intervene in the everyday operations of local authorities.

5) Central government through its ministers only has a supervisory role over the operations of local authorities and coordinates those operations, for which responsible officials can be appointed (such as prefects).

6) Disputes between state executive bodies and local self-government bodies are resolved by the courts.

In fact, what we have here is the classic model of local self-government as set out in the European Charter of Local Self-Government, which was to be adopted almost 60 years later.

Therefore, had it ever come into force, the UNR Constitution could have created a favorable constitutional foundation for drawing up and adopting the legislation needed to define the system of the administrative and territorial structure of the state, regulate the activities of local self-government bodies and spell out their relations with local residents and state bodies.

Undoubtedly, the main cause of the failure to implement the principles set out in this document was the UNR's defeat in the war against Bolshevik Russia, while ideas of democracy and local self-government during the Soviet period of Ukrainian history were exclusively associated with "Ukrainian bourgeois nationalism" and, as such, remained anathema for historical studies, let alone for practical implementation.

Unfortunately, the drafting of the Ukrainian constitution, that began in the early 1990s, was based primarily on the principles of the Soviet school of thought and partly on foreign experience, so the ideas of the UNR Constitution were never taken into consideration, and, therefore, were not implemented in the new Constitution of Ukraine, which continues to bear rudiments of the Soviet past, in particular in the chapters relating to the administrative and territorial structure and local self-government.

2.1.2. The administrative and territorial structure and the structure of power in the Ukrainian SSR under the Constitution of 1929

The Constitution of the Ukrainian SSR adopted on May 15, 1929, at the 11th All-Ukrainian Congress of Soviets in Kharkiv, offered a new administrative and territorial demarcation, which defined the existence within the Ukrainian SSR of the Moldavian Autonomous Soviet Socialist Republic²; districts; rayons; and cities, towns and villages.

² *AMSR was set up at inherent Ukrainian territory, with the capital in Kodyma (Odessa oblast') with the only goal of creating an opportunity for "reunification" of all Moldavian population in one socialist republic, while the majority of population inhabited Romanian territory.*

The 1929 Constitution did not have a special chapter dedicated to the state's administrative and territorial structure, so it is possible to assess the situation only indirectly, proceeding from the structure of power within the republic, which apparently corresponded to the administrative and territorial structure of the time.

Organs of power at national, Moldavian ASSR, district and rayon levels were all formed according to the same model: a congress of councils elects an executive committee, which by definition is both the legislative and executive body and does not operate on an everyday basis; its competences are fulfilled by the executive committee presidium, which is the organ that runs day-to-day operations.

At the level of cities, villages and towns, the councils were elected, and then set up executive committees, which were sometimes split into different departments.

The 1929 Constitution envisaged rigid, hierarchical subordination throughout the power vertical. The hierarchy of executive committees stipulated subordination from village to national level, including the execution of orders from rayon and district committees and councils of people's deputies.

A short review of the structure and competences of the organs of power in the Ukrainian SSR under the 1929 Constitution is given below.

All-Ukrainian Congress of Soviets

“The supreme organ of power in the Ukrainian Socialist Soviet Republic is the All-Ukrainian Congress of Soviets of Workers’, Peasants’, and Red Army Deputies.

The exclusive competences of the All-Ukrainian Congress include:

- a) approving, changing and amending the Constitution of the Ukrainian Socialist Soviet Republic;
- b) final adoption of the Constitution of the Moldavian Autonomous Socialist Soviet Republic and making changes and amendments to this Constitution;
- c) changing the borders of the Ukrainian Socialist Soviet Republic;
- d) establishing the borders of the Moldavian Autonomous Socialist Soviet Republic
- e) electing the All-Ukrainian central executive committee;
- f) electing representatives of the Ukrainian Socialist Soviet Republic to the Soviet of Nationalities of the USSR.

The All-Ukrainian Congress is composed of delegates elected by the All-Moldavian Congress of Soviets and by district congresses of councils (soviets) on the basis of one delegate for every 10,000 electors in urban areas, and one delegate for every 50,000 residents in rural areas.

Moldavian autonomy

The Ukrainian Socialist Soviet Republic, taking into consideration the steadfast will of the Moldavian working people to legalise its state structure within the Ukrainian Socialist Soviet Republic, is united with it on the principles of creating the Moldavian Autonomous Socialist Soviet Republic within the Ukrainian Socialist Soviet Republic.

The Moldavian Autonomous Socialist Soviet Republic is governed by its Constitution, finally approved by All-Ukrainian Congress of Soviets of Workers, Peasants, and Red Army Deputies after being adopted by the All-Moldavian Congress of Soviets of Workers', Peasants', and Red Army Deputies.

All-Ukrainian Central Executive Committee

The All-Ukrainian Central Executive Committee is the highest legislative, administrative and executive organ of power in the Ukrainian Socialist Soviet Republic in the intervals between All-Ukrainian Congresses of Soviets.

Regular sessions of the All-Ukrainian Central Executive Committee take place not less than three times a year.

The All-Ukrainian Central Executive Committee elects the head, secretary and members of the All-Ukrainian Central Executive Committee Presidium, and appoints the Council of People's Commissars, consisting of the head, deputy heads and other members of the Council of People's Commissars.

All-Ukrainian Central Executive Committee Presidium

The All-Ukrainian Central Executive Committee Presidium is the highest legislative, administrative and executive organ of power in the Ukrainian Socialist Soviet Republic in the intervals between sessions of the All-Ukrainian Central Executive Committee.

The All-Ukrainian Central Executive Committee Presidium has the right to cancel and suspend the decisions of the Council of People's Commissars and individual people's commissariats of the Ukrainian Socialist Soviet Republic, as well as the decisions of all-Moldavian Central Executive Committee and district executive committees.

The All-Ukrainian Central Executive Committee Presidium issues decrees, resolutions and ordinances and considers and approves draft decrees and resolutions submitted by the Council of People's Commissars of the Ukrainian Socialist Soviet Republic.

The Council of People's Commissars of the Ukrainian Socialist Soviet Republic

The Council of People's Commissars of the Ukrainian Socialist Soviet Republic, as the administrative and executive body of the All-Ukrainian

Central Executive Committee, exercises general management of the Ukrainian Socialist Soviet Republic.

The Council of People's Commissars of the Ukrainian Socialist Soviet Republic within the framework of the competences granted to it by the All-Ukrainian Central Executive Committee, passes laws and resolutions that are binding throughout the territory of the Ukrainian Socialist Soviet Republic.

The Council of People's Commissars of Ukrainian Socialist Soviet Republic is accountable to the All-Ukrainian Congress of Soviets and the All-Ukrainian Central Executive Committee and its Presidium.

People's commissariats of the Ukrainian Socialist Soviet Republic

Direct governance of the individual branches of public administration in the Ukrainian Socialist Soviet Republic is entrusted to the people's commissariats:

- 1) People's Commissariat of Internal Affairs,
- 2) People's Commissariat of Justice,
- 3) People's Commissariat of National Economy,
- 4) People's Commissariat of Land,
- 5) People's Commissariat of Finance,
- 6) People's Commissariat of Commerce,
- 7) People's Commissariat of Labour,
- 8) People's Commissariat of Education,
- 9) People's Commissariat of Health Care,
- 10) People's Commissariat of Social Security,
- 11) People's Commissariat of Workers' and Peasants' Inspection,
- 12) Central Board of Statistics.

Leadership in the struggle against political and economic counterrevolution is entrusted to the State Political Directorate of the Ukrainian Socialist Soviet Republic, commanded by the Head, who is at the same time an authorised representative of the Joint State Political Directorate of the Union of Soviet Socialist Republics.

Local organs of power

Council congresses

Locally, organs of Soviet power are:

- a) councils of workers', peasants' and Red Army deputies;
- b) rayon and district council congresses, and the executive committees elected by them.

Representatives of all the councils located on the territory of a given administrative unit participate in the work of the congresses.

Council congresses are composed:

- a) rayon — of deputies, who are elected by city, village and town councils, as well as Red Army and Navy military units under the regulations established by the All-Ukrainian Central Executive Committee and according to the procedure stipulated by the law on elections;
- b) district — of representatives, who are elected according to the regulations and procedures stipulated in legislation on citizens' election rights and on procedures for elections, from the city council of the district-centre city and from rayon congresses.

Executive committees

Executive committees are elected by the council congresses and, in the intervals between congresses, within their terms of reference, function as the highest organs of Soviet power on the respective territory.

Executive committees are accountable to the congresses by which they are elected and are subordinate to the council congresses and higher executive committee, the All-Ukrainian Central Executive Committee and the Council of People's Commissars of the Ukrainian Socialist Soviet Republic.

Executive committee presidium

For the management of operational work on the respective territory and the implementation of resolutions and ordinances of the central authority, the executive committees elect presidiums, with the number of members defined by the higher executive committees for each administrative-territorial unit.

Executive committee departments

Executive committee departments, as bodies directly subordinate to the executive committees and their presidiums, must fulfill the orders and tasks of the respective higher executive committee and of the people's commissariats of the Ukrainian Socialist Soviet Republic.

Councils of deputies

Councils of deputies are formed:

- a) in cities — city councils;
- b) in urban towns and areas with plants, factories, mines, and railway installations — town councils, created by resolution of the rayon executive committee, approved by the district executive committee;
- c) in villages — village councils.

Note. In large cities — city rayon councils may be created by resolution of the city council, approved by the district executive committee.

For the conduct of operational work, the councils of deputies elect executive committees or presidiums according to the regulations established by the All-Ukrainian Central Executive Committee.

Competences of local organs of power

The competences of local organs of power include:

- a) taking measures aimed at the cultural and economic development of the given territory;
- b) elaborating and approving local budgets;
- c) implementing resolutions of the respective higher authorities;
- d) resolving issues of local importance for the given territory;
- e) consolidating Soviet activities within the given territory and supervising the operation of all state and public organisations on this territory;
- f) ensuring revolutionary legality on the given territory and protecting law and order, and public safety;
- g) supporting the operation of professional and cooperative organisations, indigent peasants' organisations and other local civic organisations;
- h) considering issues of national importance, both on their own initiative and on the suggestion of higher authorities.

The 1929 Constitution attempted to generalise and systematise the changes in the system of power that had taken place in the republic after the civil war and NEP. In contrast to the first Bolshevik Constitution of 1919, which differed significantly from the 1918 UNR Constitution in its superficiality and tendency to make pronouncements for effect, the 1929 Constitution was more functional and more likely to be observed. That is not surprising, because participating in its development were experts with knowledge of the principles of constitutional regulation of a political system and experienced in judicial practices. However, the 1929 Constitution never became a tool for safeguarding Ukrainian identity and, naturally, was completely different from the 1918 UNR Constitution in its philosophy.

2.1.3. The administrative and territorial structure and the structure of power in the Ukrainian SSR under the Constitution of 1937

The extraordinary 14th Ukrainian Congress of Soviets, which took place in the new capital Kyiv on January 30, 1937, adopted a new Constitution, which, with relevant changes and amendments, lasted until 1978 and became known as “the Stalin constitution”.

In terms of judicial practices and the logic of the constitutional structure and the system of authority in the republic, the new constitution was of much better quality than that of 1929. However, like its predecessor, the

1937 Constitution failed to make any great advances in providing a constitutional basis for the administrative and territorial structure.

Administrative and territorial structure

In contrast to the 1929 Constitution, the 1937 Constitution contained a list of the administrative-territorial units at the sub-national level, i.e. oblasts and the Moldavian Autonomous Republic.

Article 18. The Ukrainian Soviet Socialist Republic is composed of the following oblasts: Vinnytsia, Dnipropetrovsk, Donetsk, Kyiv, Odesa, Kharkiv, Chernihiv and the Moldavian Autonomous Soviet Socialist Republic³.

Indirectly, it can be understood from Article 72 of the constitution that the administrative and territorial structure of the Ukrainian Soviet Socialist Republic included the following administrative-territorial units: oblasts, districts, rayons, cities, towns, Cossack settlements and villages.

Organs of power at the national level

The 1937 Constitution made significant strides in professionalising legislative power; the most important of these was the rejection of congresses as archaic leftovers from the era of revolution and War Communism. For the first time in the history of Soviet constitutions, the concept of a “legislative” body and a certain separation of legislative and executive powers were introduced.

Verkhovna Rada of the Ukrainian SSR

Article 20. The highest body of state authority in the Ukrainian SSR is the Verkhovna Rada of the Ukrainian SSR.

Article 22. The Verkhovna Rada of the Ukrainian SSR exercises all the rights vested in the Ukrainian SSR under Articles 13 and 19 of the Ukrainian SSR Constitution, in so far as they do not, by virtue of the Constitution, come within the jurisdiction of organs of the Ukrainian SSR that are accountable to the Verkhovna Rada of the Ukrainian SSR, that is, the Presidium of the Verkhovna Rada of the Ukrainian SSR, the Council of People's Commissars of the Ukrainian SSR and the People's Commissariats of the Ukrainian SSR.

³ Further on this article was amended and by the time of 1978 Constitution adoption read as follows:

“Article 18. Ukrainian Soviet Socialist Republic is made up of the following oblast's: Vinnitsa, Volyn', Voroshylohrad, Dnipropetrovsk, Donetsk, Zhytomir, Transcarpathian, Zaporizhzhya, Ivano-Frankivsk, Kyiv, Kirovohrad, Crimea, Lviv, Mykolaiv, Odesa, Poltava, Rivne, Sumy, Ternopil, Kharkiv, Kherson, Khmelnytsky, Cherkassy, Chernivtsy and Chernyhih”.

Article 23. The Verkhovna Rada of the Ukrainian SSR is the only legislative organ of the Ukrainian SSR.

Article 28. The Verkhovna Rada of the Ukrainian SSR elects the Presidium of the Verkhovna Rada of the Ukrainian SSR consisting of the Head of the Presidium of the Verkhovna Rada of the Ukrainian SSR, two Deputy Heads, the Secretary of the Presidium and 15 members of the Presidium.

Article 38. The Verkhovna Rada of the Ukrainian SSR appoints the Government of the Ukrainian SSR — the Council of People's Commissars of the Ukrainian SSR.

The Presidium of the Verkhovna Rada of the Ukrainian SSR

Article 30. The Presidium of the Verkhovna Rada of the Ukrainian SSR:

- a) convenes the sessions the Verkhovna Rada of the Ukrainian SSR;
- b) interprets the laws of the Ukrainian SSR; issues decrees;
- c) conducts nationwide referendums;
- d) annuls resolutions and orders of the Council of People's Commissars of the Ukrainian SSR, the Council of People's Commissars of the Moldavian ASSR, and also the resolutions and orders of oblast councils of workers' deputies, in cases where they are not in compliance with the law;
- e) in the intervals between sessions of the Verkhovna Rada of the Ukrainian SSR, on the recommendation of the Head of the Ukrainian SSR Council of People's Commissars, dismisses and appoints individual People's Commissars of the Ukrainian SSR, subject to subsequent confirmation by the Verkhovna Rada of the Ukrainian SSR;
- f) grants citizenship of the Ukrainian SSR;
- g) confers honorary titles of the Ukrainian SSR and makes awards;
- h) exercises the right to pardon citizens convicted by the judicial bodies of the Ukrainian SSR.

By its nature, the Presidium, quite apart from the important functions of a legislative body, has the characteristics of a collective "head of state".

Ukrainian SSR Council of People's Commissars (Government)

Article 39. The highest executive and administrative organ of state authority in the Ukrainian SSR is the Council of People's Commissars of the Ukrainian SSR.

Article 43. The Council of People's Commissars of the Ukrainian SSR:

- a) coordinates and directs the work of the People's Commissariats of the Ukrainian SSR and of other economic and cultural institutions

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- subordinate to it; coordinates and monitors the work of authorised representatives of All-Union People's Commissariats;
- b) undertakes measures for the fulfillment of the national economic plan;
 - c) undertakes measures for the implementation of the state and local budgets of the Ukrainian SSR;
 - d) undertakes measures to ensure public order, protect the interests of the state and safeguard the rights of citizens;
 - e) guides and monitors the work of the Council of People's Commissars of the Moldavian ASSR, directs and monitors the work of the executive committees of oblast councils of workers's deputies;
 - f) sets up, when necessary, special committees and Central Directorates under the Ukrainian SSR Council of People's Commissars for matters concerning economic and cultural development.

Article 44. The Ukrainian SSR Council of People's Commissars is entitled to suspend resolutions and orders of the Council of People's Commissars of the Moldavian ASSR and decisions and resolutions of oblast councils of workers' deputies, and to annul resolutions and orders of executive committees of oblast councils of workers' deputies.

The Council of People's Commissars of the Ukrainian SSR is entitled to annul orders and instructions of the People's Commissariats of the Ukrainian SSR.

Moldavian ASSR

The 1937 Constitution regulated issues concerning the organisation of power in the Moldavian ASSR in great detail. As a result, the constitution created the illusion of quasi-state sovereignty for the Moldavian people within the Ukrainian SSR, in compliance with the processes of "land gathering" that were underway in the USSR.

Article 54. The highest body of state authority in the Moldavian ASSR is the Supreme Council of the Moldavian ASSR.

Article 59. The Supreme Council of the Moldavian ASSR elects the Presidium of the Supreme Council of the Moldavian ASSR consisting of the Head of the Presidium of the Supreme Council of the Moldavian ASSR, his deputies, the Secretary of the Presidium and members of the Presidium.

Article 63. The Supreme Council of the Moldavian ASSR appoints the Government of the Moldavian ASSR — the Council of People's Commissars of the Moldavian ASSR.

Local organs of power

Under the 1937 Constitution, the system of local authority bodies at the various levels of the administrative and territorial structure looks rather

uniform: councils plus executive committees. However, like in the 1929 Constitution, all these bodies are organs of state power and operate within a rigid system of vertical subordination.

Article 72. Councils of worker's deputies are the organs of power in the oblasts, districts, rayons, cities, towns, Cossack settlements and villages of the Ukrainian SSR.

Article 74. The councils of worker's deputies (in the oblasts, districts, rayons, cities, towns, Cossack settlements and villages) govern cultural, political and economic development in their respective territory, establish the local budget, guide the work of administrative bodies subordinate to them, safeguard the existing state order, strengthen the defence capability of the country, ensure observance of the law and the protection of citizens' rights.

Article 76. The executive committees elected by the oblast, district, rayon, city, town and village councils of worker's deputies, and consisting of the head, his deputies, the secretary and members, are the executive and administrative bodies.

“Democratic centralism”, which was a distinguishing feature of the Communist Party, found its manifestation in the system of councils and their executive bodies:

Article 85. Higher level executive committees of councils of worker's deputies have the right to annul the decisions and orders of lower level executive committees and to suspend the decisions and orders of lower level councils of worker's deputies.

Article 86. Higher level councils of workers' deputies have the right to cancel decisions and orders of lower level councils of worker's deputies and their executive committees.

The 1937 Constitution of the Ukrainian SSR presented the structure of executive bodies at oblast, rayon and city level in great detail, with the enumeration of departments and directorates. On the one hand, it had to ensure the uniformity of administrative structures over the whole territory of the republic, and on the other — to guarantee a certain stability, given that the period between 1921 and 1937 was characterised by a plethora of changes in both the administrative and territorial structure and the structure of government. In fact, it was a fairly ineffective measure, as making changes to constitutional regulations was not a very complicated process under total Communist Party control. All the changes were unanimously voted for on Central Committee instructions.

This manifested itself most vividly under the “Khrushchevite” and “anti-Khrushchevite” reforms, when “radnarhosps” (national economy councils) were formed and dissolved, and oblast councils were divided along industrial and agricultural lines and then merged again.

Nevertheless, the 1937 Constitution became the first constitutional attempt to get away from the dogmas of “revolutionary expediency” and the uniformity of “workers’ power”.

Interim conclusions

A comparative analysis of the provisions concerning the administrative and territorial structure in the aforementioned constitutions leads us to the conclusion that legislators, especially during the Soviet period, failed to resolve the issue of the system of administrative-territorial units.

Although the UNR 1918 Constitution did not contain any explicit regulations on the administrative and territorial structure system, which was to be established by a separate law, it did set out the main principle to be implemented in the law — the three-level structure of administrative-territorial units: community, volost, land.

Another important constitutional norm of the UNR 1918 Constitution relates to the principle of the division of competences between the organs of power that were to be elected in the administrative-territorial units and the executive power of the state:

1) All local issues fall under the remits of community, volost and land councils;

2) Ministers provide only coordination and monitoring of the activities of councils and boards without intervening directly in those activities;

3) All disputes between councils and the executive power were to be resolved by judicial review.

These statements really do appear amazing. This is the European Charter of Local Self-Government enshrined in the UNR Constitution, decades before it was actually developed and adopted. Despite the somewhat archaic language used in formulating legal norms in the UNR Constitution, it can be argued that the conceptual approach set out in this document to the system of administrative and territorial structure and organs of power in the administrative-territorial units (currently — local self-government bodies) remains relevant even now.

In contrast to the UNR Constitution, the 1937 and 1978 Constitutions introduced into constitutional practice the notion of the governmentalisation of local power and snarled up the administrative and territorial structure system in Ukraine for many decades to come. The confusion that was created remains to this day.

Probably, bearing in mind the administrative and territorial structure reforms of 1922–1936, when provinces, povits and volosts were replaced by oblasts, districts, rayons and village councils, when some oblasts would be abolished and other established, and constant changes occurred at the rayon and village (volost) levels, the authors of the 1937 Constitution

included in the document a list of the oblasts that made up Ukraine. This practice was continued in the subsequent constitutions of 1978 and 1996.

This stability at the regional level played a positive role in general. New regions, significantly different from the traditional Ukrainian lands in terms of geography, social and economic structure, and even mentality, emerged in Ukraine. Which is why trying to get back to the ancient regions of Podillya, Slobozhanschyna or Volyn today is hardly feasible.

On the other hand, these Soviet constitutions moved away from the classical approach of defining the administrative-territorial unit as a universal territorial entity with certain organs of power, introducing cities and towns along with administrative-territorial units in the narrow sense of the term (i.e. oblasts and rayons) into the administrative and territorial structure system (the 1937 Constitution of the Ukrainian SSR).

The next constitution, the Constitution of 1978, expanded the list even further, adding city rayons and the “cities of republican subordination” Kyiv and Sevastopol, and eventually, the Autonomous Republic of Crimea.

Thus, instead of a clear and simple three-tier administrative and territorial structure, as envisioned by the UNR Constitution, we approached the new Constitution of 1996 with a non-hierarchically built, confusing system, which included the Autonomous Republic of Crimea, oblasts, rayons, cities, city rayons, towns, villages, and the cities with special status Kyiv and Sevastopol.

Again, in contrast to the UNR Constitution, the 1937 and 1978 Constitutions recognised local councils as bodies of state power and granted them general competences.

This is most marked in the 1937 Constitution, which established a strict principle of centralism and the subordination of councils and their executive committees. The upper-level councils could annul the decisions of lower councils as well as the decisions of lower-level executive committees. Strict subordination along these lines existed for executive committees as well. Having added to this the rigid power vertical of the Communist Party of the Soviet Union, we end up with a picture of highly centralised state power, where local bodies are nothing but the executors of the vertical’s will.

The 1978 Constitution of the Ukrainian SSR inherited this vertical from its predecessor and strengthened it. During the period 1990–1996, due to the dozens of changes introduced to the constitution, this rigid vertical and the omnipotence of different councils in the same territory were partly destroyed. However, no changes in the overall system of the administrative and territorial structure or strict division of executive (state) and local power occurred.

Great hopes were attached to the adoption of the new Ukrainian Constitution of 1996; however, they never came to pass. The shadow of the Stalin-Brezhnev constitutions prevented not only modern European practices, but also the ideas laid out in the UNR 1918 Constitution from seeing the light of day in the Ukrainian Constitution of the new age of independence.

2.2. The constitutional foundations of the administrative and territorial structure and local self-government in Ukraine in the Constitution of 1996

2.2.1. The problem of the administrative and territorial structure as a problem of the reform of the entire system of public power in Ukraine

Nowadays, when everyone agrees that public power in Ukraine is inefficient, a new formula for building efficiency has appeared: the transfer of powers from local state administrations to local self-government bodies and the provision of those bodies with the necessary financial resources. However, this formula fails to address the issue of the local bodies' capacities to fulfill their functions. Do they have sufficient numbers of qualified personnel? Is the fulfillment of all the functions that come within the remit of the first rung of local self-government feasible and economically viable for all its bodies — village, town and city councils?

Few among the adherents of this approach take into account the large figures involved. I once happened to participate in a meeting at the Ministry of Agriculture dedicated to rural development issues. The head of a village council very convincingly and emotionally told us that in winter the residents of his village had to shovel their streets, as the village council did not have a single snow-plow. Was the state incapable of providing the village council with a tractor and a truck so that the snow could be removed and the dead could be taken to the graveyard? The cost would be a mere 100,000 hryvnas, which is not a fortune. Or is it? I suggested he did some simple arithmetic: 12,000 village councils multiplied by 100,000 hryvnas amounts to 1.2 billion. Add in fuel and oil expenses, drivers' salaries, guards for the costly equipment, and so on — what would the workload and cost efficiency of these machines be and who would pay the maintenance costs when the state's only source of revenue is the taxes collected in specific areas?

My calculations vexed the village head, who in spite of everything continued to hope that someone would give him the money. It never occurred to him that the funding should be collected first and foremost in the local

communities and that the local authority should predominantly rely on its own resources, of local origin, and not expect subsidies from the state.

So, a large amount of doubt surrounds the theory that Ukraine, even in the distant future, will achieve financial independence for all its communities (in other words, local self-government bodies) to pay for all the public services within the remit of local self-government.

Hence, the simple formula — give enough funds to local self-government bodies and they will provide high-quality public services for everyone — is in fact false. Firstly, the funds are simply not there, and will not be there for the foreseeable future; secondly, a significant number of territorial communities, even if they have the funds, will not be capable of providing the entire list of required services, as the number of residents in these communities is so small that the maintenance of budget-funded service organisations will be far too costly.

However, we will look in more detail at the impossibility of real decentralisation of power without an appropriate rationalisation of the administrative and territorial structure a little later.

First, let us consider a few legal points that arise from the constitutional norms, and, more specifically, from their ambiguity and contradictory nature.

As stated earlier, the 1996 Constitution of Ukraine has the same rudiments of Soviet construction as the 1937 and 1978 Constitutions. Confusion of the terms of administrative law and urban development, an attempt to reconcile concepts of “all-powerful councils” and local self-government autonomy, together with an unspecified spatial basis for organising executive authorities and local self-governments, has led to a situation today where constitution-related problems are discussed by one and all.

2.2.2. The constitutional basis of the administrative and territorial structure and local self-government in Ukraine

When analyzing the organisation of power in the administrative and territorial structure, one cannot avoid the major constitution-related problems, which are, to a large extent, responsible for the inefficiency of power at the regional and local levels and its internal conflicts.

For a better understanding of these conflicts, we need to refer to the articles in the Constitution of Ukraine that define the basis of the administrative and territorial structure in the country, as well as the competences of the bodies of executive power and local self-government that operate at different levels of the administrative and territorial structure.

Article 133 of the Constitution states that the system of administrative and territorial structure of Ukraine is composed of the Autonomous Republic of Crimea, oblasts, rayons, cities, city rayons, towns and villages.

However, neither this nor any other article contains the explicit provision that each of the aforementioned subjects is an administrative-territorial unit (ATU). Nor does the Constitution include general approaches to the formation of ATUs or anything that they are required to do. Thus, principles of logic and consideration of the general legal context based on Constitutional regulations should be applied in order to understand the administrative and territorial structure system and define administrative-territorial units. However, the problems do not disappear even then.

For example, paragraph 2 of Article 133 contains a list of the administrative and territorial formations that Ukraine “is composed of”. This time these are given as the Autonomous Republic of Crimea, the named oblasts, and the Cities of Kyiv and Sevastopol.

It is clear that a certain contradiction arises from the two paragraphs of the same article. According to the logic of paragraph 2 of Article 133, the Cities of Kyiv and Sevastopol come under the same category of administrative-territorial unit as the Autonomous Republic of Crimea and oblasts, while according to paragraph 1 of the same article, cities are — or at least appear to be — administrative and territorial formations on a level inferior to that of the oblast.

Therefore, one can assume that the Cities of Kyiv and Sevastopol combine regional and city statuses. It is only an assumption, however.

An overall analysis of Chapter 9 of the Constitution, “Territorial Structure of Ukraine”, provides good grounds to argue that it does not establish a strict hierarchy of administrative-territorial units within the administrative and territorial structure; does not define levels of the administrative and territorial structure; and does not specify requirements of administrative-territorial units at different levels.

Moreover, units that, according to legal definitions, belong to different categories — i.e. oblasts and rayons, which actually are categories in the administrative and territorial structure; and villages, towns and cities, which are urban planning categories — are all referred to as components of the system of the administrative and territorial structure.

In Chapter 6, the vagueness of legal norms creates problems for the implementation of norms in other parts of the Constitution that set out the principles for the formation and operation of bodies of executive power and local self-government in administrative-territorial units.

Exercising the right to local self-government thus becomes extremely complicated.

Instead of a simple provision stipulating that local self-government is performed within the boundaries of an administrative-territorial unit, Article 140 provides a definition of local self-government: “Local self-government is the right of a territorial community — residents of a village or a voluntary association of residents of several villages into one village community, residents of a

town, and of a city — to independently resolve issues of local character within the Constitution and the laws of Ukraine...The issue of organisation of the administration of city rayons lies within the competence of city councils.”

A number of jurisdiction-related questions arise immediately from this:

Is local self-government carried out within the boundaries of a territorial unit such as a village, town or city, or is it totally unconnected with the territory and defined only by the rights of citizens?

What is the territorial basis of the local self-government in cases where several villages come together to form a territorial community? Does the area between the villages fall within the local self-government’s jurisdiction?

Which level of the administrative and territorial structure shall a formation (a village council or city council) belong to if it is really an administrative-territorial unit?

What does the right of city councils to resolve issues related to the “organisation of the administration” of city rayons mean in practice? Does it mean they can set up and disband city rayons, or only define the bodies of administration in these rayons and their competences?

Two other excerpts should be added to the list of contradictory provisions. From Articles 118:

“Local state administrations are accountable to and under the control of councils in the part of the authority delegated to them by the respective rayon or oblast councils.

Local state administrations are accountable to and under the control of the bodies of executive power of a higher level.”

And from Article 119:

“Local state administrations on their respective territory ensure:

- 1) the execution of the Constitution and the laws of Ukraine, ...;
- 2) legality and legal order; the observance of laws and freedoms of citizens”.

Under these provisions, an executive body is actually subordinate both to the state and to local self-government bodies, while as part of its competences it should ensure compliance with the law, including by local self-government bodies.

The main principles of the division of competences were violated in the drawing up of these articles — a body cannot effectively exercise supervision while being dependent on the object that is being supervised; a state body cannot perform the functions delegated to it by a local self-government body when these same functions and competences were granted to the local self-government body by the state!

It is no coincidence that Articles 118, 119, 133 and 140 have more than once been taken for interpretation to the Constitutional Court of Ukraine, which is trying, step by step, to amend the legislature’s mistakes.

Is there any way to mitigate the constitutional imprecision concerning the system of the administrative and territorial structure and local self-government in everyday practice without changing the Constitution?

Partly there is, since the Constitution contains Article 92, which asserts that the territorial structure of the state is determined exclusively by the laws of Ukraine.

Thus, with a relevant law, it would be possible to define what is required of administrative-territorial units, establish their hierarchy, and link the basic administrative-territorial unit with Article 140 by defining it as the spatial basis of a territorial community — the subject of local self-government.

Naturally, the dualistic nature of local state administrations would remain a problem, as would their conflicts with local self-government bodies. These conflicts, though, can be minimised through comprehensive implementation of Chapter 9 and Chapter 6, Article 118, which provides for the removal of the head of a local state administration on the basis of a vote of no-confidence by the respective oblast or rayon council.

Unfortunately, over recent years, the legislature, instead of minimising the points of conflict in the Constitution of Ukraine, has moved in the direction of aggravating them. This became most noticeable after the introduction of the proportional electoral system with closed party lists at practically all levels of the administrative and territorial structure of Ukraine.

Interim conclusions

The 1996 Constitution of Ukraine:

- is imperfect in defining the territorial basis of bodies of executive power and bodies of local self-government; the legal constructs that are applied are contradictory.
- does not contain necessary or adequate legal norms for the creation of a clear hierarchical system of the administrative and territorial structure.
- does not provide the basis for setting up a system of local self-government covering the whole of Ukraine with competences precisely defined and supported by available resources.
- contains lines of conflict within the system of power at the regional, rayon and territorial-community levels.

Lines of conflict in local self-government bodies and between local self-government bodies and bodies of executive power

Currently we see a whole range of lines of conflict in local power, brought about by imperfections in Ukrainian law and a lack of political culture.

1) Community – city⁴ mayor, community – city council.

In practice, when elections to city councils began to be conducted by proportional representation, the council members and city mayors lost the close ties to their electorates. Those who cast their vote for a given party or block at the local elections, based upon the national leader and campaign, quickly discovered that the city council members were not as fit and proper as the leader's image had suggested and tended to neglect the citizens' interests. City mayors, finding themselves with a partisan council, also began to pay less attention to the voters' needs, as the next elections were a long way off, and a vote by two-thirds of the council members can remove a mayor from his or her position. And all the parties may be minded to join their efforts to that end if they cannot reach an understanding with the mayor over their business.

The lack of interaction between the bodies of local self-government in territorial communities and the communities themselves has resulted not only in local civil conflicts in the cities, but also in initiating local referendums on the recall of the city mayor and city council.

2) City mayor – city council.

When direct elections of city mayors were first introduced, the mayors were elected by an absolute majority of votes. If none of the candidates won over 50% of the ballots in the first round, the two leading candidates went through to fight a second round. This relatively complicated system provided voters with the opportunity to root out inappropriate candidates, while the elected mayor could clearly be seen to enjoy the voters' support and so was less dependent on the city council. City councilors, who were elected in the same way, could feel the strong electoral support of the mayor, which meant that conflicts between mayors and city councils were less frequent. Since mayors began to be elected by a relative majority of votes, we have witnessed many instances of inappropriate candidates coming to power having won 11–15% of the ballots. These mayors feel particularly vulnerable, since they do not have the approval of the majority of voters and become more and more dependent on the city council members. To win the councilors' support, they expand the executive committee staff and allot land to organisations connected with councilors without any auction or tender, thus further increasing their vulnerability and the lack of public confidence in the local authorities.

If a city council does pass a vote of no-confidence in a mayor, his duties are performed by the council secretary, no date for new mayoral elections is set, and no one is personally responsible for the functioning of the community — all of this presents a real threat to the territorial community.

⁴ *This concept applies to villages and settlements as well; nevertheless, it is most prominent only in suburban villages, where community possesses its last resource, i.e. the land.*

3) Rayon council – rayon state administration, oblast council – oblast state administration.

Here again, conflicts between rayon and oblast councils and their respective local state administrations are caused by several fault lines in the legislative system. Under the Constitution of Ukraine, rayon and oblast councils represent the joint interests of territorial communities and nothing more. They don't have their own executive bodies, and their powers are fairly limited.

The legislature, however, when passing the Law "On local self-government in Ukraine" listed a whole series of rayon and oblast council powers that cannot be exercised without the executive bodies, and so a priori must be delegated to the respective local state administrations. After the 2006 elections, a whole array of rayon and oblast councils, that had become overtly politically partizan, refused to delegate these powers to the local state administrations or decided to annul their predecessors' decisions on the delegation of powers.

Did this change anything in practice? Not a thing, as the councils are anyway incapable of performing their functions without the executive bodies, while local state administrations cannot stop delivering these functions, because in that case the whole of local life would grind to a halt. Thus, a legal problem exists and can be set off at any moment.

Apart from that, the councils suddenly decided that they were the key players in the power structure and, as soon as they convened, established salaries for their top officials at much higher rates than those of corresponding local state administration officials, and then started to expand their staff.

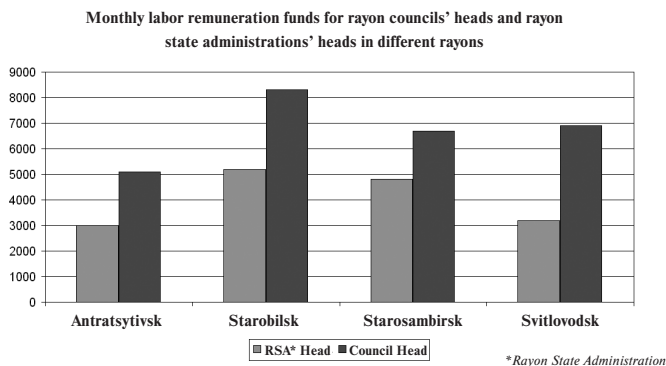


Fig. 2.

This chart shows the monthly payment fund for the heads of rayon councils and rayon state administrations in different rayons (all figures for 2006). This practice is typical for all Ukrainian oblasts.

The problem of councils passing votes of no-confidence to the heads of local state administrations reached a peak in 2006 and continued into the 2007 elections. These local conflicts found support at the national level,

when the then Head of the Verkhovna Rada of Ukraine and Prime Minister of Ukraine started to talk about abolishing local state administrations by the end of the year.

Just a year after the local council elections in 2006, votes of no-confidence in more than 50 rayon state administration heads had been passed! The situation then stabilised to a certain extent, once deputies became aware of the fact that a vote of no-confidence does not always result in the head's dismissal, as a due judicial procedure should be followed, and the appointment of the new head is anyway beyond their control.

In the vast majority of cases, the reason for the no-confidence vote was undisguised political interests or the personal ambitions of the council and administration heads, who failed to understand the simple truth: **local self-government and local state administrations are not enemies but partners.**

4) Rapid increases in the numbers of local self-government body employees without expansion of competences.

The practice of increasing the number of staff working for local self-government bodies first manifested itself in President Kuchma's time, particularly in Dnipropetrovsk oblast, where the oblast council unilaterally tried to expand its powers, increasing the number of its employees in comparison with the other oblast councils. This process continued after the 2006 elections, and was added to by village and city councils, which tried to increase their numbers of employees during the period of "permanent parliamentary elections" and by the creation of councils in villages where they had never existed before.

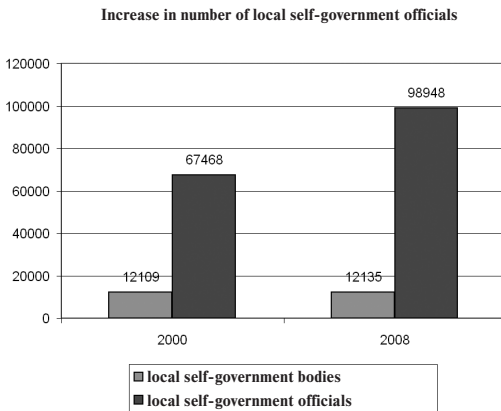


Fig 3. Increase in the number of employees of local self-government bodies 2000⁵–2008.

⁵ By 2009 the number of local self governments' officials exceeded 100 thousand persons.

Between 2000 and 2008, while the number of councils increased by only 2% (26 councils), the number of people employed in the local self-government sector grew by 47% (31,480 people).

Interim conclusions

The system of executive power bodies and local self-government bodies that has been created in Ukraine is ripe for potential conflict.

This situation has been determined by the legal formulations of the Constitution and has not been resolved in legislation.

Resolving the conflict is possible only by a strict division of authority between the executive and local self-government bodies, which is not possible without improving the administrative and territorial structure of Ukraine and creating new territorial communities capable of addressing all issues of local significance, so that the executive bodies are relieved of the need to perform inappropriate functions.

SECTION 3. PROBLEMS OF THE CURRENT ADMINISTRATIVE AND TERRITORIAL STRUCTURE OF UKRAINE

3.1. Legislative regulation of the administrative and territorial structure in Ukraine

The problems that can be seen with the administrative and territorial structure today did not arise overnight — they result from the inertia of the current national political elite, which is incapable of doing what is needed: bringing the administrative and territorial structure and the system of executive and local self-government bodies in line with the global changes that have taken place in Ukraine since 1990.

Despite the fact that in the first half of the 1990s a multi-faceted economy came into being, based on private ownership of the means of production, the move towards a genuine multi-party system and political pluralism began, and Ukraine turned away from the vertical of the councils as the bodies of state power, in Ukraine, in contrast to neighbouring countries, the administrative and territorial structure and system of public power at the regional and local levels was not brought into step with the new realities.

Over 14 years have passed since the adoption of the new Constitution of Ukraine in 1996; nevertheless, no fundamental law on the administrative and territorial structure has been passed, while contemporary issues relating to the administrative and territorial structure continue to be resolved in accordance with the Decree of the Presidium of the Verkhovna Rada of the Ukrainian SSR “On the procedure for addressing issues related to the administrative and territorial structure of the Ukrainian SSR” of March 12, 1981.

A considerable number of the legal norms set out in the “Provisions on addressing the issues related to the administrative and territorial structure of the Ukrainian SSR” which were approved by that decree either fail to comply with or directly contradict the current Constitution of Ukraine.

Table 5

Norm in the Provisions	Correspondence to the Constitution
The administrative-territorial units of the Ukrainian SSR are: oblast, rayon, city, city district, urban-type settlement, village council, village and settlement.	The Constitution does not define an administrative-territorial unit, but the administrative and territorial system described there does not envisage such units as village councils and urban-type settlements; moreover, the

Norm in the Provisions	Correspondence to the Constitution
	Autonomous Republic of Crimea and the cities of Kyiv and Sevastopol are not mentioned at all in the Provisions.
1. The formation and liquidation of oblasts are performed by Verkhovna Rada of the Ukrainian SSR, and in intervals between its sessions – by the Presidium of the Verkhovna Rada of the Ukrainian SSR... The division of oblasts into rayons at the time of their formation is determined by the Presidium of the Verkhovna Rada of the Ukrainian SSR.	The formation and liquidation of oblasts is outside of the Verkhovna Rada’s competences.
The establishment and alteration of borders and the appointment and reappointment of oblast administrative centres are conducted by the Presidium of the Verkhovna Rada of the Ukrainian SSR according to proposals submitted by the executive committees of the respective oblast councils of people’s deputies	The appointment and reappointment of oblast centres comes under the competences of the Verkhovna Rada of Ukraine, oblast councils do not have executive committees, which would have to submit proposals. The sources of legislative initiative are determined by the Constitution of Ukraine, and they do not include executive committees, oblast or other councils, etc.
The formation and liquidation of village councils, the appointment and reappointment of their administrative centres, and the establishment and alteration of village council borders are conducted by the executive committee of the oblast council of people’s deputies according to proposals submitted by the executive committees of the respective rayon or city (for cities of oblast subordination) councils of people’s deputies	Glaring contradiction of the Constitution. These activities are within the competences neither of oblast executive committees (which do not, in fact, exist) nor of oblast councils.

As can be seen just from this brief review of some of the most important norms contained in the provisions, their application under current constitutional conditions is rather problematic, although actual practice has shown that the Verkhovna Rada of Ukraine, despite the obvious unconstitutionality of the decree, has managed to use it successfully in specific cases.

Example: Changes of boundaries between rayons

Resolution № 576-VI of the Verkhovna Rada of Ukraine of September 23, 2008, (363.73 ha of land in Korostyshev rayon is incorporated into Andrushivka rayon).



Fig. 4. Changes of boundaries between rayons under Resolution № 576-VI of the Verkhovna Rada of Ukraine of September 23, 2008,

3.2. Some major challenges that require immediate reform of the administrative and territorial structure of Ukraine

1. Urbanisation of Ukraine and depopulation of rural areas

Figures from Western European and North American countries show that only about 4% of the population is engaged in agricultural production, although about 20% of the population lives in the countryside. From which it may be assumed that a significant proportion of rural residents work in the cities.

In Ukraine, 32% of the population lives in the countryside, but the rural population is falling by 1% every year. Unemployment in the villages is much higher than in the cities.

Deploying production facilities in the villages is not currently feasible; therefore, rural residents are doomed to migration to the cities, which creates psychological problems both for them and for urban residents as city infrastructure becomes overloaded.

2. Rural decay.

Because there is no work in villages, people are moving to the city or working there while continuing to live in villages that form part of the suburbs. Villages located more than 15 km from a city are becoming depopulated, their social infrastructure is falling into decay. The decrease in the number of children in villages leads to the deterioration of schools and rural

education becomes non-competitive. Children that graduate from small village schools have virtually no chance of finding a job in the new economy.

3. Lack of favorable climate for business development.

Nowadays, almost no Ukrainian city has the capacity to develop new production, because none of them can provide a parcel of land of the size required for a new production facility. The average factory needs an area of 15–20 ha, which cities cannot find within their boundaries. Vacant plots, though, can be found in the land reserves managed by village councils, but the villages are small in size, and, therefore, unable to supply the workforce required. The only possible solution is to deploy new production facilities on village council lands located near to the cities. In this case, however, a conflict of interests between village council, city council and rayon council will immediately and inevitably arise. These conflicts have become traditional in Ukraine over recent years, leading to billions of euros in investments never making it to the country. A vivid example of this is the attempt to construct a state-of-the-art metallurgy plant near Bila Tserkva (Kyiv oblast) on land managed by Shkariv village council, which failed due to confrontation between council members and the city and village self-government bodies.

Agricultural businesses, especially those involved in crop production, require huge areas of land. Today big agricultural companies are cultivating tens of thousands of hectares that are located within the jurisdiction of several village councils, often in more than one rayon. The more administrative boundaries and bodies they have to deal with, the higher the risks for such businesses.

4. Incapability of addressing water supply, sewerage and waste disposal issues.

Modern cities, limited by their current boundaries, are practically incapable of constructing water conduits, sewerage plants or landfill sites for waste disposal on their territories. Surrounding village councils refuse the cities' requests to use village lands for city needs. On the other hand, they have to deal with their own problems concerning infrastructure and the provision of high-quality public services for their residents.

The only solution in such situations is to expand cities' jurisdictions to adjacent territories in such a way that the rural residents would also reap benefits.

5. The impossibility of dividing powers between executive and local self-government bodies that lack of capacity to execute their own powers.

The so-called duplication of powers between executive bodies and local self-government bodies, which leads to conflicts of competences, can be resolved only if and when all local self-government bodies at the same level

of the administrative and territorial structure are capable of discharging all the duties they are given under law. In fact, in Ukraine a considerable number of local self-government bodies, especially in rural areas, cannot exercise their powers due to financial, organisational and human-resources constraints. Hence, their powers have to be delegated to other people by executive bodies — the rayon state administrations. This brings about a situation where some communities in a rayon, especially those in the rayon centre or a city of oblast significance, provide their residents with the full range of services that fall within the remit of local self-government, while the majority of rural communities cannot do the same, and their residents receive services through the rayon state administrations or the agencies they have created.

The same applies to budgeting in cities of oblast significance and other cities, towns and villages. Cities of oblast significance can form their budgets by dealing directly with the state budget, while other communities do not have that possibility and, as a result, their budgets are less stable and less predictable.

3.3. Most urgent problems of the administrative and territorial structure of Ukraine

1. Excessive splitting of basic-level administrative-territorial units.

To better understand the problems of rural self-government bodies in Ukraine, it is helpful to look at a breakdown of figures for the population size of villages and village councils.

The distribution of 27,000 populated areas in Ukraine in terms of numbers of residents is presented in the following chart:

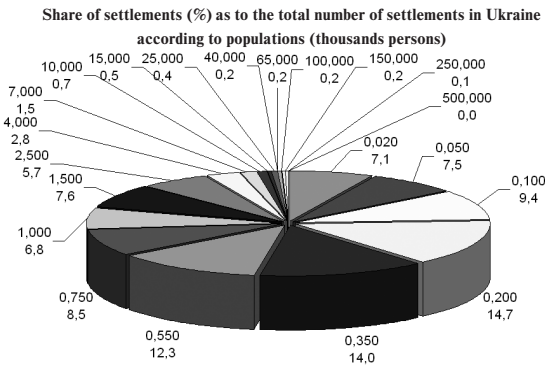


Fig. 5. Number of populated areas as a percentage of the total number of populated areas in Ukraine in terms of population

Ranking: up to 20 residents; from 20 to 50; from 50 to 100; from 100 to 200; from 200 to 350; from 350 to 550...

The number of localities with a population of 100 residents or fewer amounts to 24% of the total!

As far as village councils are concerned, the situation is not much better, despite the fact that several villages can be united under the jurisdiction of a single village council.

Even from this perspective we find four villages with village councils where the number of residents is less than 100!

For example, Posika village council (Tysmennitsa rayon) has 73 people (as of 2003) living within its boundaries, of which 15 are council members, one is the council head, and three more are village council employees.

Is a village council necessary in such a village? What services can it provide? What organisations can its budget support? What resources does it have?

Table 6.

Disparities in village council populations and the consequences

Indicator	Kobtche village council, Rozhyshe rayon	Difference (expressed as a multiple)	Mayaky village council, Lutsk rayon
Population	273	21	5 800
Statutory number of council staff	5	2.4	12
Workload per staff member	55 residents	8.8	483 residents
Expenditure on maintenance	78 900 UAH	5	397 600 UAH
Official salary of council head	1 070 UAH	1.1	1 150 UAH
Terms of reference	— identical , according to the Law of Ukraine “On Local Self-Government in Ukraine”		

This table compares two village councils within the same oblast that are responsible for villages with different numbers of residents. It shows the differences in budget provisions per resident of the village council area and workloads per village council employee. The inefficiency in the use of budget resources for the village council with the very small population can clearly be seen.

2. Multi-tiering and lack of hierarchy in the administrative and territorial structure system

The lack of a strict hierarchy of administrative-territorial units makes it impossible to distribute competences and budgets among the local self-government bodies operating in these units with any degree of precision.



Fig. 6. Administrative and territorial structure system

The diagram shows that an administrative-territorial unit of one level — a village, city, or town — can be a part of another administrative-territorial unit of the same level — a rayon, which is most often at a higher level than a city, although it can be part of a city, while the cities themselves can have different statuses.

All of this complicates not only the system of governance in administrative-territorial units, but also the state budget system.

3. Insertion of administrative-territorial units (the Russian doll)

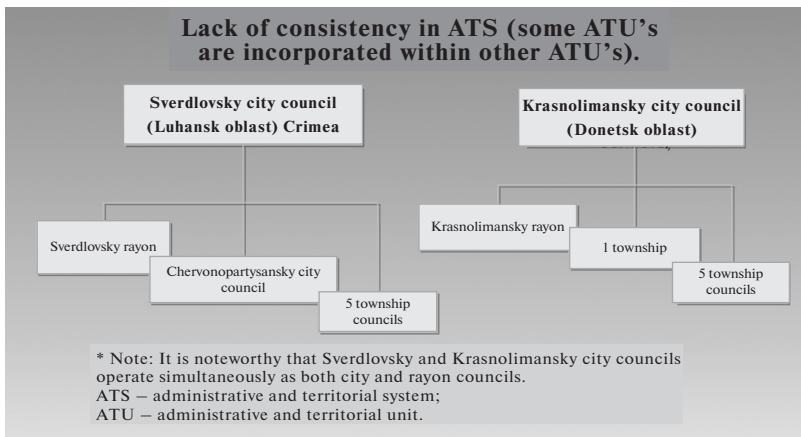


Fig. 7. Example of inserting administrative-territorial units into others

The classic requirement of a system of administrative-territorial units is that it has a hierarchical structure with distinct levels and continuity of jurisdiction. Sadly, Ukraine provides many examples where this requirement is ignored. The cities of Sevastopol and Yalta are classic examples — each of them is composed of 31 other units. In addition, the city borders encompass vast areas of farmland, nature reserves and groups of summer cottages. Within a city, the presence of other cities and towns (each with their own local self-government body, with the same competences as the city authorities) creates serious complications in land use, local taxation, running an effective network of municipal organisations and establishing the budget of the “big” city and the cities and towns inside its borders.

Putting an end to this competition of competences between local self-government bodies in “composite administrative-territorial units” is not feasible without depriving the “inserted units” of administrative-territorial unit status.

4. Status of an administrative-territorial unit

In addition to the indistinct hierarchical structure of Ukrainian administrative-territorial units, those units that logically belong to the basic level (although not recognised as such by the law) have different generic labels and, even when they have the same label, can differ in status.

In the first place this concerns cities, which are accorded the status of a city of rayon significance, city of republican significance (in the Autonomous Republic of Crimea), or city of oblast significance. In addition, there are two cities with special status — Kyiv and Sevastopol. Under the Decree of the Presidium of the Verkhovna Rada of the Ukrainian SSR of 1981, a city of oblast significance must have at least 50,000 residents. In reality, however, numerous cities do not meet this criterion and acquired their status through lobbying.

The status of a city affects the treatment of its budget by the state budget. The smaller the population of a city that receives “oblast significance” status, the larger its budget revenues per capita will be, although its real capacities to provide services for residents will still be insufficient when compared to a city of oblast significance with 100,000 or more residents.

Table 7.

Population size in some cities of oblast significance

Name of city of oblast significance	Population (residents)	Oblast/region
Sudak	14 943	ARC
Zhdanivka	12 723	Donetsk
Chop	8 776	Zakarpattia

Name of city of oblast significance	Population (residents)	Oblast/region
Yaremche	7 929	Ivano-Frankivsk
Rzhyschiv	8 436	Kyiv
Morshyn	6 225	Lviv
Ochakiv	15 047	Mykolaiv
Teplodar	9 808	Odessa
Novodnistrovsk	10 344	Chernivtsi

At the same time, budget revenues per resident can differ dramatically between cities of oblast significance within a single oblast, as can be seen from the figures for three cities in Ivano-Frankivsk oblast:

Ivano-Frankivsk — 887 hryvnas

Bolekhiv — 1,926 hryvnas

Yaremche — 3,302 hryvnas

Disparities in population size between cities with the same status lead to inefficient use of budget funds and create incentives for lobbying aimed at acquiring the status.

Interim conclusions

The present system of the administrative and territorial structure in Ukraine faces many problems that urgently need to be solved. The system is complicated and confusing.

SECTION 4. ATTEMPTS AT REFORM IN UKRAINE

4.1. The 1998 Concept of administrative reform

On July 22, 1998, President of Ukraine Leonid Kuchma signed Decree №810/98 “On measures to implement the Concept of Administrative Reform in Ukraine”. This decree legalised the Concept of Administrative Reform in Ukraine, which had been developed on the president’s order by the State Commission for Administrative Reform in Ukraine.

It was probably the first wide-ranging concept document in Ukraine to contain new ideas and addressed different aspects of administrative reform, including reform of local self-government and the administrative and territorial structure.

The authors of the Concept rightly stated in the first section: “*Creating an up-to-date efficient system of public administration is an important factor in overcoming the transformational crisis in Ukrainian society. The necessity of creating a new system of public administration as a tool for overcoming the crisis in Ukraine has been underestimated until recently*”. One is immediately struck by the parallels with 2005, and presently with 2009, when the crisis is being used as an excuse for refusing to reform the administrative system.

The concept document also comes to a reasonable conclusion: “*The system of public administration in Ukraine is inefficient in general; it eclectically combines institutions inherited from the Soviet period with new bodies that came into being around the time Ukraine gained its independence. This system is inherently ambiguous, incomplete, cumbersome and detached from the people; as a result, the existing public administration has become a hindrance to the implementation of socio-economic and political reforms*”.

Several recipes for change were put forward to amend the situation described above, and are of interest in the context of the present study:

“*To achieve the goal of administrative reform, a number of tasks should be fulfilled in the course of its implementation: the efficient organisation of executive power, both at the central and local levels of government; the introduction of a new ideology of the functioning of executive power and local self-governance, which should be regarded as an activity aimed at ensuring the exercise of citizens’ rights and freedoms and the provision of state and communal services; the introduction of a rational administrative and territorial structure*”.

However, the concept paper, which is reasonably detailed and developed where it relates to changes at Cabinet of Ministers level and in the central executive power bodies and civil service, is less comprehensive in addressing the issues of the administrative and territorial structure and local self-government bodies. Nevertheless, on the whole, the problems were diagnosed correctly:

“The current system of territorial structure and local self-government has a number of faults adversely affecting the efficiency of administrative operations:

Regional and local levels of government reflect the system of the administrative and territorial structure that was introduced into Ukraine in the early 30s for the benefit of the centralised party-bureaucratic administration. For this reason, a significant portion of self-governed territorial units (villages, towns and cities of rayon significance in particular) currently lack the necessary financial and economic resources; the constitutional definition of a subject of local self-government — i.e. a territorial community — is not harmonised with the system of administrative-territorial units: populated areas, whose territorial communities under the Constitution of Ukraine, are independent subjects of local self-government are situated within the borders of other populated areas. In connection with this, the problem arises of distributing the self-government competences of different territorial communities co-existing within one administrative-territorial unit”.

Even by reading the document several times, one is not able to understand how the administrative and territorial structure of Ukraine should be reformed. The mode of presentation is so complicated and unclear that the most important provisions in the Concept deserve quoting in full:

“The process of transforming the territorial structure and local self-government system shall be based on national practices, as well as on international, above all European, practices. It is feasible to implement the transformation process in three stages, taking into consideration:

- constitutional and legal principles of the organisation and functioning of the state;*
- the unitary structure of the state, ensuring Ukraine’s integrity;*
- current tendencies in integration processes, with consideration given to the necessity of promoting the policy of uniting small territorial communities, enlarging self-governed administrative-territorial units, creating agglomerations of populated areas, and setting up economic zones;*
- overcoming negative tendencies of the disintegration of territorial communities;*
- the parallel functioning of executive bodies and local self-government bodies at the regional level of government;*

- the objective need to decentralise public administration, deconcentrate, delegate and transfer functions and competences in the provision of governmental and communal services.”

“The process of setting up new basic level administrative-territorial units is performed at the first and second stages by conducting state-legal trials in different regions of Ukraine.

At the third stage the administrative-territorial units of the middle (rayon) and upper (oblast) levels of the administrative and territorial structure also undergo transformation while keeping in place its constitutional three-tier format.

At the same time, the possibility of transferring to a two- or four-tier system in administrative and territorial structures is to be considered with the aim of identifying the most efficient combination of centralisation and decentralisation of government, and deconcentrating, delegating and transferring the largest possible volume of administrative functions to the most basic level of government, which will draw government closer to the population”.

In fact, the authors of the Concept, in addressing the issues of administrative-territorial and local self-government reforms, failed to define a system for the administrative and territorial structure (the number of levels in the structure and the hierarchy of administrative-territorial units), to insist on compliance with the principle of the continuity of jurisdiction of local self-government bodies over the whole territory of Ukraine, or to provide a definition of an administrative-territorial unit and populated area.

Despite the fact that the Concept recognised the contemporary administrative and territorial structure as a rudiment of the old Soviet system, the authors, or those who prepared the document for submission to the President, lacked the political will to get away from the Soviet stereotypes that to this day persist both in Ukrainian legislation and in the minds of our politicians.

Naturally, with such an approach the Concept was hardly likely to be implemented. If there is no clear vision of change, no system of measures leading to that change can be identified either. The same applies to the indicators needed to monitor the implementation of state policy relating to reforms and to the correlation of measures needed to achieve positive results.

Nevertheless, certain ideas in the concept document were put into practice in the regulation of the legal status of the government, ministries and administrative bodies; some progress was also achieved on issues relating to the civil service and local government service.

As for reforms of the system of local self-government and the administrative and territorial structure, the 1998 Concept remained just a theoretical study containing half-Soviet, half-European ideas of change.

Then in 2005, the realities of life called for a revision of the Concept and the development of a new vision of transforming the administrative and territorial structure of Ukraine and strengthening of the role, efficiency and responsibility of local self-government bodies in dealing with local affairs for the benefit of local people.

4.2. A mandate to develop reform projects

Following approval of the Concept on Administrative Reform in 1998, successive Ukrainian governments made numerous attempts to begin real work on preparing reforms of the administrative and territorial structure; however, all of them were doomed to failure. Every time the government changed, all the projects started by the previous government came to a dead end, and all the decisions made in this area were annulled.

Ongoing changes in government were accompanied by political problems. No government in Ukraine had full political support in promoting reforms, while the political parties participating in the formation of the governments lacked a clear understanding of what needed to be done to finally establish an efficient system of power in Ukraine, rationally organised to cover the entire territory of the country. This lack of understanding becomes evident when analyzing the programmes and election manifestoes of the parties and blocks that contested Ukrainian parliamentary elections (this topic will be addressed further on).

This set of real problems hindering the preparation of reform projects was exacerbated by a fundamental mistake of the governments — they attempted to devise reforms without identifying which central executive body or ministry would be in charge of drafting the reform plans in the first place and then implementing them.

Without institutional support, not a single reform of the administrative and territorial structure or local self-government has ever been carried out.

Meanwhile, the opposition and mass media have remained indifferent to the necessity of systematic reform in Ukraine.

Despite the main political forces in Ukraine having alternated in power since 1998, and regardless of which of them has actually been in power, the government and opposition have adopted conflicting positions on reforms and the ways to implement them every time.

Each time a political force comes to power, it starts negotiations and takes certain steps in the direction of reform; however, it encounters severe criticism and demands from the opposition not to go through with the reforms, although this same opposition a year earlier had also tried to prepare reforms within the same framework! In the meantime, new elections are approaching and the government, at the request of its own political

forces, again postpones preparation and implementation of the reforms, and the whole cycle starts anew.

To illustrate this point, let us look at just a few official documents initiating specific government actions to prepare reforms of the administrative and territorial structure.

1. ORDINANCE of August 19, 2002 № 478-p

On the inter-departmental working group for preparing a draft Concept on improving the system of the administrative and territorial structure in Ukraine

Set up an interdepartmental working group to devise a draft Concept on improving the system of the administrative and territorial structure in Ukraine, composed of the persons listed in the addendum.

The interdepartmental working group shall submit the draft Concept before October 1, 2002.

Prime Minister of Ukraine

A. KINAKH

2. ORDINANCE of May 13, 2004 № 308-p

On setting up an interdepartmental working group for devising conceptual provisions for improving the system of local executive bodies, local self-government bodies and the administrative and territorial structure

Set up an interdepartmental working group for devising conceptual provisions for improving of the system of local executive bodies, local self-government bodies and the administrative and territorial structure composed of the persons listed in the addendum.

Prime Minister of Ukraine

V. Yanukovych

3. RESOLUTION of May 6, 2005 № 324

On measures for the implementation in 2005 of the programme of the Cabinet of Ministers of Ukraine “Meeting People’s Interests”

The Cabinet of Ministers’ of Ukraine resolves to:

1. Approve the plan of measures for the implementation in 2005 of the programme of the Cabinet of Ministers of Ukraine “Meeting People’s Interests”, which is attached.

Prime Minister of Ukraine

Y. TYMOSHENKO

234.

Develop a draft version of the Law of Ukraine “On the territorial organization of Ukraine”, where the following aspects should be determined: legal status, key features and criteria, formation and liquidation, naming and

The workgroup May under the Cabinet of Ministers of Ukraine

renaming, establishing the borders of administrative-territorial units, separated settlements (such as settlements of farmers, woodsmen, railroadmen, country and garden settlements, places where military detachments are based), regional peculiarities; the administrative-territorial organization system; compile a classification of cities, which would incorporate their socio-economic significance and role in the development of respective territories; define the constitutional status of such administrative-territorial units as village council, urban type settlement council and municipality; envision the inclusion of urban type settlement network into respective settlement category.

235.

Develop a draft version of the Law of Ukraine “On the introduction of changes into the Constitution of Ukraine” (the part concerning administrative-territorial organization improvement)

The workgroup under the Cabinet of Ministers of Ukraine May - June

236.

Prepare the draft versions of regulatory legal acts, resulting from the Law of Ukraine “On the territorial organization of Ukraine” (particularly concerning the issues of optimizing the number and defining the status of administrative-territorial units, setting and changing their borders, naming and renaming of settlements).

Ministry of Justice and other central executive power bodies Three-months term following the adoption of the Law of Ukraine “On the territorial organization of Ukraine”

237.

Prepare the cartographical materials regarding the territorial organization of each region, city of oblast significance, oblast, where the terms of reference of each authority would be specified.

The Institute of Geodesy and Cartography “Dnipromisto”, the Council of Ministers of the Autonomous Republic of Crimea, oblast and city state administrations, the Secretariat of the Cabinet of Ministers of Ukraine. May-October

4. RESOLUTION of May 14, 2008 № 714-p

On setting up an interdepartmental working group on the issues of reforming the administrative and territorial structure and local self-government

Set up an interdepartmental working group on the issues of reforming the administrative and territorial structure and local self-government, composed of the persons listed in the addendum.

Prime Minister of Ukraine

Y. TYMOSHENKO

To these documents could be added several presidential decrees on consultative and advisory bodies under the President of Ukraine (in different periods they bore different names), responsible for devising and considering draft conceptual documents on the administrative and territorial structure and local self-government. The most recent body was created under the Cabinet of Ministers of Ukraine by Decree № 309 of April 2, 2009 “On setting up the Council on Regional Development and Local Self-Government”. This decree abolished the Interdepartmental Committee on Local Self-Government under the Cabinet of Ministers of Ukraine and the Council for Regional Development.

Actually, only the last of the documents quoted above (№714-p of 14.05.08) resulted in the drafting of two conceptual documents — the Concept of the Administrative and Territorial Structure and the Concept of Local Self-Government Reform, which went through all the approval stages set out in the Regulations of the Cabinet of Ministers of Ukraine and awaits consideration by the government in order to acquire the status of documents that pave the way for reforms.

Reform attempts of 2005: the causes of failure

As one can see from the above, the issue of reform of the administrative and territorial structure in Ukraine became highly topical with the beginning of the new century. Virtually every government planned to start working on reforms, but these plans were never realised.

When a new government headed by Prime Minister Yulia Tymoshenko was formed in 2005, one of deputy prime ministers, Roman Bezsmertny, was charged with doing the undoable — preparing and implementing reform of the administrative and territorial structure and local self-government.

Resolution № 324, of May 6, 2005, “*On measures for the implementation of the Cabinet of Ministers of Ukraine’s programme “Meeting People’s Interests” in 2005*”, was to become the official document spelling out the necessity of the reforms and setting a specific time-frame for their implementation.

In fact, even before this resolution was passed, Roman Bezsmertny brought together a group of academics, experts and specialists from the

Secretariat of the Cabinet of Ministers of Ukraine, the Ministries of Justice, Economics, and Finance, and the Institute of Geodesy and Cartography, who began drawing up the first draft of the Law “*On the administrative and territorial structure of Ukraine*”.

A huge amount of work was accomplished within six months. The law was drafted; a set of methodological guidelines for modeling territorial communities and rayons in Ukrainian oblasts was put together; working groups were set up in the oblast state administrations; and the administrative-territorial units in six oblasts were modelled in accordance with the draft law.

Thanks to the personal involvement of deputy prime minister Bezsmertny, a series of seminars and workshops on the draft law and different perspectives of the reform of the administrative and territorial structure were held in Vinnytsia, Ivano-Frankivsk, Odessa and Luhansk.

But the reform process never moved any further than that.

Today, by analyzing the political situation in Ukraine at the time, the media environment, and the mood among politicians at national, regional and local levels, it is possible to reach certain conclusions as to the reasons for this failure:

1. The political component

Following the inauguration of the new President of Ukraine in 2005, the parties making up the ruling majority agreed to work together in the executive branch of power and to distribute positions at the national, regional and local levels according to quotas. It is true, however, that such an agreement was only necessary because the majority itself was not homogenous. It consisted of such ideologically diverse components as Victor Yushchenko’s *Nasha Ukraina*, Yulia Tymoshenko’s *Bat’kivshchyna* and Oleksandr Moroz’s *Socialist Party of Ukraine*, which did not share a common vision on the future reforms, and as a result there was a lack of unity on this issue in the midst of the executive power.

The situation in parliament —the Verkhovna Rada of Ukraine — which was elected before the presidential elections and had neither the legitimate mandate nor the ideological proximity of the government, was even more complicated.

2. The organisational component

The newly elected president’s team not only lacked a package of draft laws relating to reform, they did not even have a conceptual vision of those reforms, and in particular, administrative and territorial structure reform, which is why the preparation of reforms started with the formation of the government.

In 2005, there was no central executive body in the governmental structure that was in charge of devising and implementing reform of the administrative and territorial structure, and — to reiterate a point made earlier — no reform is possible without institutional support.

In fact, all the preparatory work for reform of the administrative and territorial structure was carried out under the patronage of the deputy prime minister's office and the Department of Regional Policy under the Cabinet of Ministers of Ukraine and by a group of independent experts from non-governmental structures. This arrangement was doomed to failure from the start.

3. The methodological component

Because the political forces that formed the new executive bodies had not worked out their ideology of reform beforehand, pressures of time in the regime led to a choice that seemed to be correct at that moment: to start by drafting and adopting a fundamental law on the administrative and territorial structure. This choice, however, turned out to be the wrong one from a presentational viewpoint, and therefore, garnering political support for it became an insurmountable problem.

Misunderstanding the concept of the changes to the entire system of executive power and local self-government that should have resulted from the reform of the administrative and territorial structure, politicians and elected representatives at all levels regarded the draft law as a hidden threat to them personally, as it would result in a decrease in the number of political posts, administrative positions and so on.

4. The presentational component

The practice of convening large cluster meetings with the heads of rayon councils and rayon administrations, city mayors from a wide range of oblasts and local journalists proved ineffective for two reasons.

First of all, from the point of view of practical training for local state administration staff, the format of the meetings was unsuitable; people were not involved in the process in an active way and could not acquire the detailed knowledge they needed for their work. For this reason, only very moderate interest was shown in the presentations offered by the team from Kyiv.

Secondly, these events are inevitably attended by a few people who are going to denounce the reforms in an emotional, if not provocative, way, usually following a familiar refrain: everything dreamt up in Kyiv is pure nonsense that has nothing to do with real local needs — just give us money and we'll do everything necessary without any need for reform.

And it is these outraged speeches that were given the most coverage by the journalists present and retold by the participants in their respective rayons and cities, giving life to new myths about the reforms, which were

allegedly going to “redraw the map of Ukraine”, “slice up village councils like a salami”, and so on.

The analysis of publications included further on shows that the presentational battle in favour of reform was lost.

Deputy prime-minister Roman Bezsmertny was then dismissed, and practically all work aimed at administrative and territorial structure reform ground to a halt.

Despite President Yushchenko’s statements highlighting the need for reform in the current situation, no practical steps were taken, and the era of “the Bezsmertny reforms” came to an end.

Today, many of those, who oppose any kind of reform refer to the attempts at reform of the administrative and territorial structure in 2005 as an example of the failure of both reform and reformers in general.

In fact, the situation is quite different. In 2005, the reforms did not even begin, but the preparatory work, which was carried out on an almost “voluntary” basis, proved that even major goals can be achieved with meagre resources. In order to succeed, however, serious reform needs not only a team of enthusiastic supporters, but also a responsible political force to initiate it and the political will of the country’s leadership to implement it.

As for the groundwork done in 2005 — it was not wasted, but used in subsequent attempts to improve the administrative and territorial structure of Ukraine.

The political component of the reforms — the official positions of presidential candidates and political parties on the system of power and the administrative and territorial structure of Ukraine.

Experience shows that all global reforms that have taken place in different countries of the world have, as a rule, been prepared by an opposition that then comes to power and immediately starts to implement the reforms, while it still enjoys the trust of the people and before its officials “grow into” the bureaucratic structure and become incapable of carrying out reforms. Examples are numerous: Roosevelt, De Gaulle, Margaret Thatcher, Tony Blair, Solidarity in Poland, Sayudis in Lithuania.

Sometimes the process is different: significant reforms mature within an authoritarian power, which, upon the fall of the dictatorship or the demise of the dictator, quickly implements them in order to avoid the uncontrolled collapse of the entire system: here we could mention post-Pinochet Chile, Spain after the death of Franco, Stolypin in Russia, or Khrushchev in the Soviet Union.

In Ukraine, the reality of recent years demonstrates that we do not yet have political forces or individual politicians, who are ready to set out reforms of the administrative and territorial structure, local self-government or regional policy in their election manifestos.

With a few exceptions, election manifestoes in Ukraine contain the usual raft of general-purpose slogans, not backed up by the mention of any practical steps or reform-related ideas that the country badly needs.

Short excerpts from the manifestoes of candidates in the 1999 and 2004 presidential elections, as well as those of political parties in the 2002 and 2006 parliamentary elections, illustrate this argument.

1. Excerpts from ELECTION MANIFESTOS OF PRESIDENTIAL CANDIDATES (1999)

1	OLEKSANDR FILIMONOVYCH BAZYLIUK	Self-government, from enterprise to region. Reasonable federalism. Direct participation of citizens in the governance of the state. The activities of enterprises, both state and private, must be transparent for their employees.
2	NATALIA MYKHAILIVNA VITRENKO	Increase the competence of the regions while granting representative authorities and their executive committees exclusive rights to govern territories in the context of performing the functions incumbent upon them, with a reliable tax base for local budgets
3	MYKOLA OLEKSANDROVYCH GABER	For: - a strong unitary state, while guaranteeing the free development of its regions and respecting the distinctive traditions of its peoples, preserving its unity with all the force of law and government.
4	YURI ANATOLIYEVICH KARMAZIN	I will immediately eliminate all governmental authorities that duplicate each other.
5	VITALIY MYKOLAYOVYCH KONONOV	Reform of power. Decentralisation of power while preserving the unitary state structure: "Think globally, act locally".
6	YURI IVANOVYCH KOSTENKO	The government apparatus and regulatory authorities will be reduced. Local self-government support will be provided. Power will become open and subordinate to the public. Budgetary reform will ensure the financial independence of local self-government. The budgetary system will encourage local authorities to develop their territories.
7	LEONID DANYLOVYCH KUCHMA	Completion of administrative reform; a bicameral parliament; a politically responsible majority in parliament based on a broad public coalition; government by the parliamentary majority, public trust and responsibility;; reduction and overhaul of the government apparatus; adoption of a Code

		of Honour for public servants and public oversight of its observance. Away from an all-powerful centre – towards strong regions. Harmonisation of the relations between the state and local communities; increasing the independence of local authorities and self-government bodies; establishment of municipal property.
8	YEVGEN KYRYLOVYCH MARCHUK	Mindless confrontation between the branches of power will be brought to an end.
9	OLEKSANDR OLEKSANDROVYCH MOROZ	... regions will gain real independence.
10	VOLODYMYR MYKOLAYOVYCH OLIYNYK	Transfer of power to the local level, to people and territorial communities under the high supervision of the state – this is the Ukrainian way. Throughout the world it is known as civil society. All forms of civil self-organisation – from spiritual brotherhoods to credit unions – are historic components in the practice of Ukrainian solidarism, age-old factors in the survival and self-awakening of the Ukrainian nation.
11	VASYL VASYLIOVYCH ONOPENKO	Reduce spending on the upkeep of the government apparatus by conducting administrative reform. Forming the state budget “from the bottom up”. Priority of regions in the process of forming the state budget. Clear delimitation of functions between central authorities and local self-government bodies. Nation-wide elections for local state administration heads. Budget allocations to the regions to be sufficient to ensure that social guarantees are met.
12	OLEKSANDR RZHAVSKY	Ukraine needs strong self-government because the life of every person depends on how things are going in his/her village or city.
13	PETRO MYKOLAYOVYCH SYMONENKO	<i>Conducting active socio-economic regional government policy aimed at harmonising the interests of the state and regions, taking into account the special features and scale of economical potential as well as the specifics of social problems in each of the regions of Ukraine.</i>
14	GENADIY YOSYPOVYCH UDOVENKO	— ensuring economic independence and relevance of using the potential of Ukrainian regions.

The excerpts in the table show that, in 1999, a declaration of the need for reforms always went hand in hand with support for the rights of regions, while individual candidates' programmes concerning, for example, the election of the heads of oblast state administrations shows that the issue of state administration had not been studied thoroughly enough by their teams, and that they were totally unaware of the possible consequences of such innovations (especially considering the fact that Ukraine had already been through this in 1994, and had a vivid example of it in Kyiv, where the mayor of the city represents both state power and local self-government).

Thus, the 1999 elections did not bring forward a single candidate with coherent ideas on reform of the administrative and territorial structure, local self-government or regional policy over the next five years.

The situation did not change significantly in the presidential elections of 2004. Despite an increase in the number of candidates, the parts of their election manifestoes that concerned these important issues remained nothing but slogans, containing no specific ideas for future reforms.

2. Excerpts from ELECTION MANIFESTOES OF PRESIDENTIAL CANDIDATES (2004)

1	OLEKSANDR FILIMONOVYCH BAZYLIUK	Self-government, from enterprise to region. Sensible federalism. Direct participation of citizens in the governance of the state.
2	BOGDAN BOYKO	We announce a policy of "municipal revolution", which was carried out by western counties in two stages (in the 1930s and 1980s), while they are now preparing for a third. The essence of this revolution lies in the radical redistribution of power (property, funds and responsibilities) in favor of territorial communities, allowing the enormous human potential, that is suppressed by the activity of bureaucratic structures, to become engaged in social development.
3	NATALIA MYKHAILIVNA VITRENKO	Building a just society requires changes to the Constitution of Ukraine. This envisions: - ensuring the sovereignty of the people through a system of sovereign councils; - forming a system of power that is subject to the people by granting voters the right to recall a deputy at any time.
4	VASYL OLEKSANDROVYCH VOLGA	- expand the rights of territorial communities, strengthen the financial, material and technical basis of local self-government and public self-organisation; harmonise the relations between the

		state and territorial communities; delimit state and communal property without delay; - abolish the institution of state administrations while creating full-fledged executive structures of local self-government bodies and expanding the local functions and responsibilities of the supervisory divisions of central executive bodies.
5	MYKOLA FEDOROVYCH GRABAR	Restoring prestige to central and local authorities in Ukraine, ensuring real democracy by <u>introducing public elections for rayon and oblast administration</u> heads and eliminating all privileges and fringe benefits for public officials and representatives of authority.
6	YURI IVANOVYCH ZBITNEV	Administrative and territorial reform must be carried out; the oblast as an administrative-territorial unit that is unfit for current purposes, must be abolished and nine social and economic regions (krays) created instead. Within a region, national and cultural autonomies can be created (for example, Crimean Tatar cultural autonomy). Instead of rayons, about a hundred districts (okrugs), centered on large cities, will be created. Problematic issues of local self-government development will be solved in appropriate ways. It is necessary to eliminate the dual authority of councils and state administrations. Considerable attention must be concentrated on the development of smaller cities and the creation of “sociopolises”. In this way, the issue of subsidies from the state budget will be removed.
7	OLEKSANDR OLEKSANDROVYCH MOROZ	For order within the state, for equality before the law for all, for just, effective power which is accountable to every citizen, for election-based local authorities.
8	OLEKSANDR OLEKSANDROVYCH OMELCHENKO	Give the power in the state to the people! Let’s make power effective by passing most of the responsibilities and resources of the state to the level of authority closest to the citizens — local self-government, and let’s ensure that it functions fully at regional level. 50 % of budgetary allocations will be directed to the budgets of territorial communities.
9	VICTOR ANDRIYOVYCH YUSHCHENKO	Conduct real political reform — everyone will feel that power is working for the citizens and is working effectively.

		Expand the rights and strengthen the basis of effective self-government — at the city, settlement and village levels. More funds will be channelled to the regions and to territorial communities to finance the most important needs of the people.
10	VICTOR FEDOROVYCH YANUKOVICH	<p>We will achieve the effective development of territories and high-tech industries, overcome disparities between regions, significantly increase the competitiveness of our exports, expand transit capacities, and ensure the energy security of the state.</p> <p>I will use all the authority and levers of power of the institute of presidency to establish just, efficient, responsible state power and effective local self-government. Constitutional, legal and judicial, administrative, and military reforms will be aimed at developing democracy and local self-government, protecting citizens' rights and freedoms, and strengthening the national security of the state.</p>

Of all the candidates, only Yuri Zbitnev recognised the need for reform of the administrative and territorial structure and offered his own vision of what such reform should include. The eventual winner of the election, Viktor Yushchenko, had certain illusions in 2004 as to the possibility of setting up an effective system of self-government that had villages and towns as its main components. Indeed, in spring 2005, President Yushchenko, at a meeting with heads of rayon state administrations and rayon, oblast and city councils, expressed his views on the need for broad local self-government reform, based on a new administrative and territorial structure. However, not even a general, conceptual outline of this reform had been prepared by the president's team before the elections, and the team probably did not know how to tackle the issue from an organisational point of view. For this reason, the presidential initiatives of 2005 remained nothing but good intentions.

SECTION 5. THE CONCEPTUAL FOUNDATIONS OF ADMINISTRATIVE AND TERRITORIAL STRUCTURE REFORM IN UKRAINE

The Concepts of Reform of the Administrative and Territorial Structure and of Local Self-Government developed by the Ministry of Regional Development and Construction of Ukraine can be found on the official ministerial website www.minregionbud.gov.ua.

Probably for the first time in Ukrainian history, two interconnected documents appeared simultaneously, providing answers to real questions and outlining not only how territorial demarcation in the jurisdiction between executive power and local self-government bodies should be carried out, but also how competences should be distributed between executive bodies and local self-government bodies and between local self-government bodies of different levels of the administrative and territorial structure, as well as how the state should exercise control over the legality of decisions made and actions performed by local self-government bodies.

5.1. Features of administrative and territorial structure reform in Ukraine under the draft Concept of Administrative and Territorial Structure Reform

The Concept of Administrative and Territorial Structure Reform developed by the Ministry of Regional Development and Construction of Ukraine provides solutions to the main challenges and threats Ukraine faces today due to the incapability of the current system of executive power and local self-government bodies to ensure the steady development of the nation, enhance the quality of life of people throughout the country, and eliminate administrative obstacles to business development and public participation in dealing with the majority of local affairs.

The concept paper consists of a few chapters and, concise though it may be, actually proposes radical changes to the entire legal system in Ukraine, which still bears the hallmark of the Soviet legal system, mixing together as it does concepts from different branches of law.

1. General provisions

The Concept of Administrative and Territorial Structure Reform envisages that concepts of administrative law which are familiar to our European partners but still not in use in Ukraine will be enshrined in legislation.

Above all, this concerns the concept of the “administrative-territorial unit” (ATU), which is to be separated from the concepts of the “populated area” or “settlement” that, since Soviet times, have taken on the meaning of “administrative-territorial unit”, causing confusion for the entire body of Ukrainian law.

The Concept characterises an “administrative-territorial unit” as an administrative-territorial formation with:

- A jurisdiction defined in law.
- The obligatory creation of both representative and executive local self-government bodies that are accountable and responsible to state bodies in the performance of functions delegated by law.

Administrative-territorial units have:

- Uniform requirements concerning both their competences and the implementation of social standards, explicitly defined in law.
- A uniform system of statistical reporting.
- Direct inter-budgetary relations between the state budget and local self-government budgets.
- Direct communication with the central authorities.

The introduction of the notion of the administrative-territorial unit by the Concept makes it possible to resolve a problem that is present in the Constitution of Ukraine but ignored by opponents of reform.

This concerns the formal right of territorial communities in all populated areas of Ukraine to practice local self-government, elect village councils and their heads, set up executive committees, and so on (Article 140 of the Constitution of Ukraine).

Formally interpreting the letter of Article 140 in this way would result in the creation of about 15,000 new village councils (!!!) in addition to the existing 12,000, the vast majority of which are subsidised by the state. Assuming that a significant proportion of these newly formed village councils were set up in villages with less than 200 residents, the volume of subsidies would grow dramatically, while there would be an increase of 40,000–45,000 in the number of officials employed by local self-government bodies.

The implementation of real local self-government on the basis of administrative-territorial units — communities — does not contravene the European Charter of Local Self-Government, which has been ratified by Ukraine, and explains the absence of local self-government in some Ukrainian villages.

If full local self-government is exercised at the ATU level, then each populated area, or territorial unit that does not meet ATU requirements will have certain elements of residents’ self-organisation and corresponding powers. However, these will be granted to them not by the state, but

by the representative body of the ATU that the populated area is a part of. Where budget issues are concerned, such populated areas will draw up not budgets, but spending estimates.

The Concept sets out requirements both for the overall system of the administrative and territorial structure, and for its components – the administrative-territorial units, which are defined on the basis of the stability of the institutional pyramid and its compliance with the requirements of the budgetary system, and the organisation of efficient management by local administrations, both in the state government vertical and through local self-government.

2. Requirements for the organisation of the administrative and territorial structure

According to the Concept, the administrative and territorial structure must comply with the following requirements, which will guarantee its stability and effectiveness:

- Harmonisation of the system of ATUs, which are created for the exercise of local self-government, with the territorial structure of local executive bodies and other bodies of authority. *This is necessary to ensure effective control on the part of local state administrations of the legitimacy of decisions made by local self-government bodies, and also for the coordination of the operations of separate executive subdivisions in a given area.*
- Ubiquity of the jurisdiction of state authorities and local self-government bodies over the territories of the respective ATUs, with the exception of territories which, under specific laws, are granted special status with specialised administrations — when an ATU's jurisdiction overlaps with the jurisdiction of an ATU of the same level. *Stipulated in conformance with the Constitutional requirement for a uniform approach to the provision of public services.*
- An administrative-territorial unit can be located only on the territory of an administrative-territorial unit of a higher level. *Duplication of administrative and control centres is eliminated.*
- The principle of subsidiarity must be applied in identifying the competences of public authorities at every level of ATU. *This principle means that competences are delegated to the most basic level, where they can be exercised without adversely affecting the quality of public service provision. This concerns not only local self-government bodies, but also the territorial bodies of the executive.*
- Each level of ATU has competences, including branch competences, hierarchically superior to other levels in budget, personnel and political aspects; this warrants the creation of such a level of ATU. *The*

existence of these prevailing competences is decisive in setting up the level. Otherwise, it would be advisable to delegate the respective functions in order to reduce the administrative apparatus. This is also necessary to avoid the reappearance of the administrative “Russian doll” and the “sorting office” approach, where central executive body directives are simply forwarded to the lower level for implementation.

- Within the sphere of influence of each body of public authority, the number of subjects of administration, coordination or monitoring by the state shall meet the requirements of efficient management. *The number of ATUs at each level of the hierarchy should be within the “optimum range” — from 7 to 10 units.*
- Compliance of the administrative and territorial structure with EU requirements concerning NUTS (Nomenclature of Territorial Units for Statistics).

The nomenclature of statistical units makes it possible to perform comparative assessments of individual criteria in different countries within the EU and produce a joint policy of budgetary assistance. Taking into consideration NUTS requirements in setting up the Ukrainian administrative and territorial structure is in line with the country’s declared aim of European integration.

3. Administrative-territorial units

The Concept of Administrative and Territorial Structure Reform envisages a three-tier system of administrative-territorial units in Ukraine: regions, rayons and communities.

In the process of making decisions on the creation and reorganisation of administrative-territorial units, the following requirements must be taken into consideration:

1. Complete and exclusive competence of public administration bodies of the same level — local self-government bodies and local executive bodies must have the capacity in terms of infrastructure, personnel and finance to execute the competences defined for them in accordance with their ATU level. *This restriction makes it possible to carry out an integrated transfer policy and coordinate the source of decision-making with responsibility for these decisions’ implementation.*

2. Integrity of ATU territories. No other administrative-territorial units of the same level must exist within the borders of the territory of an ATU. The ATU administrative centre should, as a rule, be located as close as possible to its geographical centre. *This restriction is necessary to enhance the efficiency of governance. Geographical features restrict the requirement of smooth ATU borders.*

3. Low levels of state subventions of local budgets — subsidies must not reduce incentives to enhance the tax base defined in ATU budgets. *With high subsidies, there is no incentive to increase budget revenues, as the subsidies from the state budget arrive regularly and consistently. The optimal ratio of revenues for rich and poor communities within a single group (rural or urban) is considered to be 1:2.*

4. Universal nature of ATUs — disparities in territory between ATUs of the same level must be within statistical deviations that permit the development of an integrated state regional policy. *Provides the opportunity to develop common requirements of ATU leaderships and standard forms of administration, avoiding harmful differences in social and economic potential in different ATUs.*

5. Ability to withstand political, demographic and economic challenges, absence of internal destabilising factors. *Investments in ATU infrastructure must ensure the maximum benefits, which are achieved by maintaining stable numbers of users and by avoiding political repercussions brought about by individual ambitions or the selfish interests of political groups. To avoid ethnic, political or religious confrontation in the community, residents should accept the ATU structure. Potential sources of tension with neighbouring ATUs should be eliminated.*

6. Numbers of public service users should correspond to standard workloads for the sector and budget funding capacities. *Overloading budget-funded institutions decreases the quality of the services provided, while insufficient workloads mean additional spending per user.*

7. Organisation of local self-government bodies in ATUs must ensure appropriate representation and the political capability to make socially sensitive decisions (in particular concerning local taxes, charges, tariffs and fines). *ATU leaderships must be genuinely responsible for making decisions, including unpopular ones. This requirement reduces the temptation to fragment ATUs, restricting the overambitious leaders of some ATU who are objectively not capable of providing high-standard public services pertaining to the level of ATU.*

8. Principle of mutual complementarity — ATUs, especially those at higher levels, must retain a balance between rich and poor areas and between territories with narrowly specialised and diverse economies, which will promote territorial fairness and facilitate the provision of more equal access to public services. *Makes it possible to reduce the unevenness of territorial development and quarrels over “who subsidises who”. In addition, disparities between different ATUs are decreased.*

9. Standard composition of budget infrastructure for all ATUs of the same level. *This requirement provides for standardised planning and uniform standards in public services.*

Under the Concept Paper, the regional level in Ukraine would not be subject to changes. The Autonomous Republic of Crimea and oblasts are regions. Kyiv and Sevastopol also have the status of regions.

4. Formation of communities

Administrative and territorial structure reform is aimed, first and foremost, at basic level changes — the formation of full-fledged communities. Research has shown that there are several ways of doing this.

Option 1. Redistribution of competences and responsibilities without enlarging or merging communities

This option envisages delegating the functions which the current basic level (above all, in rural areas) is incapable of performing to a level which will guarantee that they are performed effectively. At the same time, capable urban communities might be granted a broader scope of competences and responsibilities, as well as financial capabilities.

For example, in rural rayons where village councils are unable to administer the provision of education effectively, this function will be transferred to the rayon. The rayon department of education, accountable to the rayon administration head (or to the rayon council when rayon council executive committees have been set up), will administer the whole network of schools in the area.

In this case, services will not be isolated from the users, as they will be offered through the existing network of budget-funded institutions (in education — through the existing schools network). The administrative functions (financial management, human resources, property management, and management of the school bus fleet) will, however, be centralised at rayon level.

Large village councils will retain those competences that they are capable of executing — for example: land use, waste disposal, and landscape management. All or most of their delegated competences will be moved to the rayon level.

Table 8

Advantages	Disadvantages
<ul style="list-style-type: none"> – Administration at rayon level will provide the opportunity to optimise networks of public institutions (schools, medical establishments) on the rayon's territory. – The guarantee of a certain quality of services for citizens. – Cities of rayon significance will be able to provide more serv 	<ul style="list-style-type: none"> – Predominant centralisation of administrative functions relating to public services in rural rayons. – Remoteness of service provision locations from the target citizens' places of residence or business. – Resistance of village councils due to the loss of influence and resources to the rayon level. – Conflict between the rayon level and cities

Advantages	Disadvantages
ices independently, taking full responsibility. – Carrying out the measures does not require huge capital investment.	of regional significance remains. – Duplication of responsibilities: identical public services will be provided by self-government bodies in cities and by local state administrations in rural areas. – Impossibility of establishing unified budgetary norms, which would allow the building of direct transfer relations with the state budget for all ATUs.

Option 2. Enlargement through the voluntary merger of communities and distribution of functions based on existing contractual agreements.

This option envisages the voluntary transfer of competences not to rayon level, but contracted out to other communities and accompanied by relevant budget transfers.

Table 9

Advantages	Disadvantages
– Strengthening self-government in some rural and urban communities creates conditions for providing a broader range of public services at a level closer to the citizen and for improving service quality. – Establishment of conditions for more active participation of community members in resolving local issues due to the need for public discussion of matters related to the voluntary pooling of efforts by several communities. – Carrying out the measures does not require huge investments.	– Passivity of present village communities and lack of qualified personnel, resulting in substantial delays to the process of voluntary integration on a contractual basis. – Inadequacy of legislation regulating voluntary contract-based relations between public authorities can lead to conflicts that even the courts cannot resolve effectively. – Impossibility of establishing unified budgetary norms, which would allow the building of direct transfer relations with the state budget for all ATUs. – High incidence of redirecting transfers between communities.

Option 3. Community enlargement through centralised mergers, including forced mergers. Social model of community formation.

This option envisages the resolute introduction of reforms.

Villages and towns are merged up to a level at which a minimum range of public services can be provided according to the subsidiarity principle. The same applies to the rayon level. This was considered to be the main option in 2005 during preparatory work for reforms and can be described as the social model.

Table 10

Advantages	Disadvantages
<ul style="list-style-type: none"> – Establishment of a basis for strengthening community self-government. – Establishment of conditions for providing equal service standards throughout the nation, in all regions and communities. – High level of subsidiarity in the provision of services in merged communities. – Clear distribution of responsibilities, fewer conflicts between levels of self-government. – The opportunity to switch all ATUs to direct relations with the state budget. 	<ul style="list-style-type: none"> – Resistance of self-government bodies in rural areas. – Serious capital investment needed for unification of the network of budgetary institutions. – Instability of the newly created communities and their dependence upon demographic and economic factors. – Difficulties with budget revenues due to migration of the workforce.

Option 4. Fragmentation of existing rayons into the smallest units capable of performing the delegated competences and formation of communities around economic development centres. Socio-economic model of community formation.

This option envisages the following:

An economic centre — a town or city, is regarded as the core of ATU community formation. As an exception, the formation of communities on the basis of social infrastructure is possible in scantily populated or difficult-to-access areas or territories where it is appropriate on ethnic or religious grounds. In this case, a self-organised public body is set up in the territorial unit (TU).

Each ATU level is granted full and exclusive competence in executing the powers delegated to it by law. The TU level has competence only concerning its own powers as stipulated by law and also the competences delegated to it by the community.

Table 11

Advantages	Disadvantages
<ul style="list-style-type: none"> – Creation of demographically stable formations, low level of inter-budgetary redirections between different ATUs. – Tendency towards increasing the income per head of ATUs. – Uniting the interests of business and the level of service provision within the framework of the ATU. – High level of infrastructural, personnel and budgetary self-sufficiency of ATUs. – The opportunity to optimize networks of social institutions on the territory of both the community and the rayon. 	<ul style="list-style-type: none"> – Relatively large distances to the centre of the community. – Risk of movements against the centre appearing at the community formation stage, and the associated high level of political risk. – Conflicts between ATUs and TUs at the transitional stage of their formation as a result of the reduced status of self-government bodies in TUs.

Advantages	Disadvantages
<ul style="list-style-type: none"> – ATU areas are approximately equal, permitting the elaboration of a uniform policy for their development. – The opportunity to regulate the whole cycle of life within the ATU, particularly in the fields of waste disposal, transport, etc. – The opportunity to organise direct transfers from the state budget relatively easily. 	<ul style="list-style-type: none"> – The need to differentiate legislation on the formation of communities based on urban and rural settlements in the context of electoral legislation and the communities' executive authorities.

Analysis has shown that the fourth option is the most acceptable for Ukraine. The differences between the social and socio-economical options in community formation can be presented as follows:

Table 12

Indicator	Social option	Socio-economical option
Community formation principle	Where budgetary infrastructure is in place	Around the centre of economic activity
Formation method	Association of settlements	Downsizing of rayons
Average rural community size	5 000 people	9 000 people
Maximum distance from the centre	8 km	15 km
Average number of settlements	7	16

The choice of the fourth option is underpinned by the practice of organising administrative and territorial structures in other European countries. Thus, in Poland, gminas (“communes” or “municipalities”) are set up according to principles similar to those spelled out in the Concept. The creation of gminas is considered to be the best result of administrative and territorial reforms in Poland. On the other hand, the creation of powiats has caused some controversy. As for the powiats-gminas (corresponding to cities of oblast significance or city-rayons in the Ukrainian context) or the granting of special status to Warsaw, these steps are regarded by experts as unsuccessful. The formation of voivodships (“provinces”) in compliance with the EU’s NUTS 2 requirements has been vindicated and makes it possible to obtain access to EU structural funds. That is why changes to the current Ukrainian structure of oblasts are not on the agenda.

The organisation of communities set out in the Concept corresponds to the practices of basic administrative and territorial level reforms in Norway, Great Britain, Germany, Denmark, Belgium, the Netherlands and Greece.

Similar proposals for communes are now under consideration in France, which presently remains the country with the largest number of basic ATUs⁶ (over 35,000). At the same time, the system of departments and regions in France is considered to be highly effective as an administrative model, both from the point of view of self-government and for the territorial organisation of executive power.

The proposed option creates the opportunity for maximum involvement of the political and administrative elite at oblast level in the reform process. The requirements for ATUs and recommendations for their formation are fairly straightforward, so the alternatives for organising them are limited. This fact will help ensure the sustainability of the system. When implementing the relevant modeling, the oblast leadership will regard the reforms as their own and therefore will not sabotage them.

The Concept does not stipulate indicators such as the number of residents, distances or total area so as not to encourage the formation of artificial units, unstable and dependent on demographic, economic or political factors, and to avoid gerrymandering. The suggested criteria reflect certain standards for service supply — time limits for emergency medical assistance, the time needed for children to get to school and other measures used in EU countries.

Introducing these criteria provides an incentive for local authorities to implement the Concept's provisions.

Naturally, when forming the communities in real life, the factors of population and total area will need to be dealt with.

The results of modeling show that communities formed according to the Concept will be very similar in their characteristics to those set up in countries where administrative and territorial reforms have recently taken place — Denmark and Bulgaria.

The following solutions will be provided by implementing the option of setting up communities as the primary unit of the administrative and territorial structure:

- A balance will be achieved in of local budgetary policy. A single method is used for the calculation of budget transfers, while the calculations themselves are made with due account taken of the requirements for standards of public service provision in the model ATUs, using mathematical modeling methods. Any changes in legislation are adequately applied on the basis of the model ATUs, enhancing

⁶ *It is important to understand that the countries with really small communities these latter, first, do not have a mayor working full-time; the majority of communities does not have its own budget and their competences are performed on their behalf by other bodies — state administrations authorized by respective law, or neighboring communities on the contractual basis.*

-
- trust in them. Psychologically this approach is very effective as it complies with the principle of “budget-setting from the grass roots”.
- Better conditions for regional development are put in place. Community jurisdiction covers a fairly large area (420 km² on the average), which allows local authorities to make sensible decisions on attracting investment into the economy. A range of administrative borders are eliminated, making it easier to resolve issues concerning the allotting of land for industrial zones.
 - Corruption factors are reduced in the area of land management. Of the four agents currently involved in the process of allotting land (city, village, rayon, oblast), only the community and oblast remain, with their competences in managing land strictly defined.
 - Cohesive planning of territorial development becomes easier. The need to agree upon and coordinate general plans between populated areas disappears. The main role in planning is taken on by community development plans.
 - The decline of rural areas can be halted. Introducing the position of “starosta” (village elder) and bringing the centres of social decision-making closer will create better prospects for the development of rural areas.
 - Solving social and infrastructure problems becomes feasible. The removal of administrative borders makes it possible to address the issues of waste disposal, public transport, health care delivery, and school transport. The acute socio-cultural differences between urban and rural areas begin to disappear.
 - Balanced territorial development becomes possible. Communities are similar in size, so the prospect of competition between them appears, at least within their own categories (i.e. village, town, and city communities). Efforts made and results achieved will be comparable.
 - Territorial management becomes more efficient. The optimum ratio is achieved between management players and levels of control. The rayon becomes the best level for ensuring the implementation of state policy through territorial bodies of executive power — it is large enough to concentrate resources, but small enough to avoid the blurring of boundaries between state bodies and the business elite and loss of control over local self-government. The introduction of a universal administrative policy ensures an effective policy of rotation of the heads of local state administrations.
 - Management of land resources is improved and the responsibility of public authorities is enhanced. A complete life cycle is provided for on community territory — there are industrial, residential, and shopping and entertainment zones, as well as agrarian and recreational areas.
-

- Negative aspects of relations between ATUs of different levels are alleviated. Because ATU jurisdictions are expanded, the cost of land will be lowest at the boundaries with other communities. This will help to avoid “parasitism”, i.e. the establishment of shopping areas outside city boundaries to reduce taxation, which is common in some west European countries.
- The foundations for a range of reforms are laid. The compilation of a land inventory and the development of general plans and plans for land use are accelerated. Favorable conditions are created for tax reform, judicial reform and the introduction of a compulsory insurance-based state health care service.
- Opportunities to harmonise Ukrainian legislation with EU norms become available. Administrative units of the second and third levels (rayons and oblasts) fully conform with NUTS 3 and NUTS 2, and would therefore be eligible to apply for structural funds from the EU.

5. The naturalness of the new administrative and territorial system

The Concept of the administrative and territorial structure is based on a return to a natural environment for human living, which has been taking shape over the course of recent decades or even centuries.

In fact, patterns of human habitation and the location of populated areas all over Ukraine have always been linked to the gravitation of surrounding smaller localities towards the dominant populated areas — cities, towns and large villages. These were the centres of infrastructure, used both by their residents and by the residents of surrounding settlements; nowadays they offer jobs, local markets, church parishes, and so on.

Therefore, the demarcation of newly formed communities should be performed by drawing up the boundaries to fall between populated areas located within the gravitation zone of a dominant population centre.

ADMINISTRATIVE AND TERRITORIAL SYSTEM (ATS)

Current system

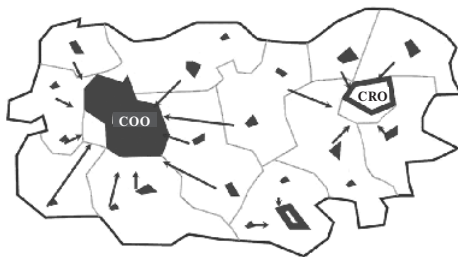


Fig. 8.

COO — cities of oblast significance

CRO — cities of rayon significance

Proposed system

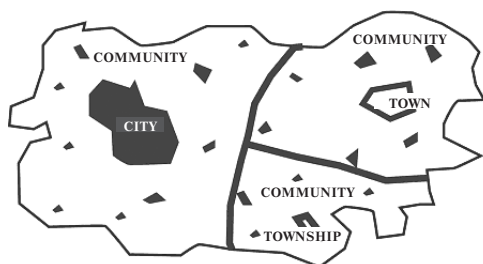


Fig. 9.

Under this scenario, all cities of oblast and rayon significance as well as cities that were formerly rayon or volost centres will become the centres of the newly formed communities. In fact, the state will honour its debts and these towns will be given new life.

The infrastructure in these new centres will contribute to their growth; the concentration of resources and creation of a new system of radial accessibility to the centres of the communities will undoubtedly enhance the quality of rural education and health care; while businesses will gain from the removal of administrative obstacles, new areas for production facilities, and better access to the work force.

At the same time, each populated area that currently has no administrative body of its own will obtain a “friendly power” — a “starosta” (elder), who will not be a public servant, but will receive some remuneration for fulfilling his or her responsibilities; it is through the starosta that the residents of small populated areas will communicate with the local governments of the communities.

6. The new rayons

The formation of communities capable of taking full responsibility for resolving most local issues within the law and the transfer to communities of the majority of administrative services that are now provided by rayon level authorities will doubtless lead to the role of rayons in the country’s administrative system being revised.

This could finally help to solve the problem of small and heavily subsidised rayons. The smallest rayon in present-day Ukraine has 7,500 residents, while the largest has 170,000. The administrative structures in both rayons are practically the same, as are the salaries of officials, despite the fact that their workloads and the financial resources of the rayons differ substantially.

The creation of large rayons will not just allow these existing imbalances to be corrected; the rayons will also become the basis of new health care districts, since the main competence of the rayon will be the organisation of highly efficient medical services.

The entire system of authority within public power will be brought closer to the people.

ADMINISTRATIVE AND TERRITORIAL SYSTEM (ATS)

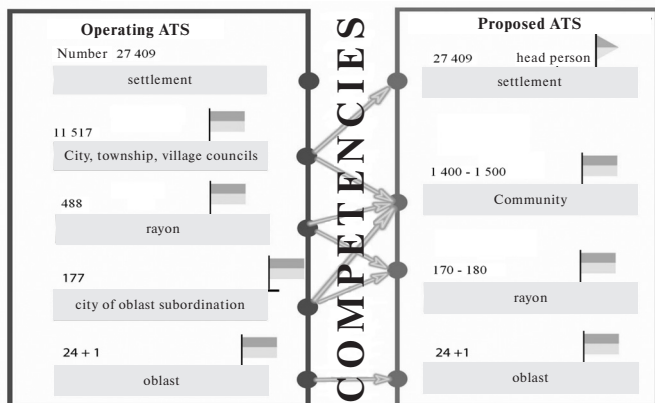


Fig. 10.

The system of self-government bodies under new administrative and territorial structure also will be simple and clear:

Basic level — community

The main representative body is the council (of a village, town or city), which has an executive body. The leader of the community is the village, town or city head, who is chosen in direct elections. Each populated area within the community has a village starosta, who is not a local-government employee, but works under contract, and also self-organised public bodies, which operate according to their own statutes.

Specific units of executive power (the treasury, the Ministry of Emergency Situations, the militia, social protection agencies) operate at the community level.

Rayon

The rayon council is formed in a way that ensures representation of the communities. The rayon competences are limited (primarily they relate to in-patient healthcare facilities). The rayon administration monitors the legality of the actions of local self-governments and performs the intrinsic functions of executive power.

Oblast

The oblast council is formed in a way that ensures representation of the rayons. The competences of the oblast council are stipulated by law and

are quite limited (primarily they relate to regional development and oblast highways). The oblast administration, which is a coordinating and monitoring body, actually represents the government in the oblast.

Possible phases of reform implementation

Rapid, systematic and well-balanced implementation of the reforms can be effected in the following phases:

Phase I – Preparatory:

- Development and approval of the reform concept;
- Calculation of operational and capital expenditure, planning of personnel rotation;
- Development of projects and passing of the legislation required for reform implementation;
- Creation of a government body in charge of reform implementation;
- Modeling of administrative-territorial units in all regions, carried out by oblast state administrations using methodological recommendations on data collection and preliminary analysis of the possibility of forming viable communities in the regions;
- Training of local self-government and territorial executive body officials.

Phase II – Building the social and political base of the reforms:

- Public education and awareness-raising campaigns;
- Reaching of political agreement on implementation of the reforms between parliamentary factions, the president and the government;
- Formation of communities on a voluntary basis under the Concept provisions based on current legislation;
- Drawing up of social standards for administrative services provided by local self-government bodies.

Phase III – Forming the communities, adjusting the rayon division:

- Completion of the formation of communities based on new legislation;
- Holding of elections to the councils of the newly formed communities in 2010;
- Transfer of competences to the newly formed councils from village, town, and city councils, and executive bodies in accordance with legislation;
- Creation of new rayons in accordance with the criteria for their formation;
- Reorganisation of rayon state administrations.

Phase IV – Expanding rayon and regional local self-government powers:

- Approval of amendments to the Constitution of Ukraine;
- Election of rayon councils and creation of their executive bodies;
- Adjusting oblast boundaries if necessary;
- Reorganisation of oblast state administrations;

-
- Election of oblast councils and creation of their executive bodies.

At present, oblasts mostly satisfy the requirements for organisation of the administrative and territorial structure and the creation of administrative-territorial units (ATUs) at regional level.

7. Financing the reforms

For the reforms to be successful, organisational support is a must. This involves:

- Development and approval of a reform implementation plan;
- Creation of a body in charge of reform implementation, headed by a deputy prime minister;
- Creation of an ad hoc inter-agency group to provide scientific and methodological support, reporting directly to the deputy prime minister;
- Creation of a group to monitor implementation of the reforms and day-to-day tracking of the reform implementation schedule;
- Creation of operational groups on reform implementation in oblast state administrations and appointment of persons in charge of reform implementation in each oblast at deputy minister level;
- Provision of informational support for the reforms.

It is envisaged that funding for the implementation of the reforms will come from state and local budgets and other sources not prohibited by law.

In the course of carrying out the administrative and territorial reform, a redistribution of budget competences will take place predominantly within the local budgets of rayons, villages, towns and cities of rayon significance.

Virtually all communities have the full range of budget organisations that are required to carry out all the functions of local self-government identified for the community level. However, local subdivisions of central executive authorities are not currently formed on the basis of villages or towns.

Additional state budget expenditure will be required to fund the newly established militia departments, sanitary-epidemiological centres and state treasury offices in every community. Given that such bodies or their equivalents already operate in larger cities, the number of additional budget-funded entities that will need to be set up in villages amounts to 876 units.

The obligation to fund professional and vocational training will pass from the state budget to the local budgets of the newly formed rayons. No additional costs are envisaged within this transfer.

Also at rayon level, monitoring bodies (inspectorates) for the education, health care and culture sectors will be set up and financed by the state budget.

Land departments will be split off from the land resources directorate, which is funded by the state budget, and will be funded from local community budgets.

The delegation of a range of functions from rayon to community level will be accompanied by the changes in administrative bodies.

After remodeling there will be a total of 1,408 newly formed communities. These will be comprised of communities set up on the basis of cities of oblast significance (176), on the basis of rayon centre cities (378), on the basis of cities of rayon significance (456), and on the basis of villages (398). Under ISO standards, the total number of officials in the communities' administrations will amount to 92,830. There will be 15,000 starostas and 13,664 people working in sectoral administration departments. The number of employees in these departments was calculated only for communities formed on the basis of cities of rayon significance or villages, because communities set up on the basis of cities of oblast significance and rayon centre cities already have such departments, and the size of their workforce is already accounted for within the administrative apparatus. The planned total number of employees of local self-government bodies in the communities is 123,894.

At the same time, a significant reduction in the number of village council staff is expected in connection with the reforms. However; the vast majority of them will be reemployed by the communities' administrative bodies, primarily those set up, on the basis of cities of rayon significance and villages. Thus it is foreseen that a balance will be maintained in employee numbers.

The reforms envisage an eventual reduction in the number of rayon state administrations. There are currently 488 rayons in Ukraine. As of January 1, 2010, rayon councils employed 7,320 people, and rayon state administrations 54,735. Following the reforms, there will be about 180 rayons with 21,114 employees, while 2,160 sectoral inspectorates and 2,160 subdivisions of central executive bodies will be created.

The planned number of redundancies among rayon state administration employees is estimated at 31,183.

Additional funding is required to provide budget infrastructure for 876 of the newly formed communities.

5.2. Budgetary aspects of the administrative and territorial structure reform

The optimal system of inter-budgetary relations

When decisions are made on the advisability of reform implementation, budget aspects acquire the utmost importance. The necessity for change in the existing system of relations between inter-budgetary players should be determined by the twin concepts of striking the best balance between revenues and expenditure and the efficient use of public funds. This is particularly important in the implementation of administrative and territorial reform, as it involves the interests of local administration leaders and the majority of branch structures at local level and also changes the nature of

the relationship between local government and state executive bodies as well as between public authorities within the administrative hierarchy.

From a budgetary point of view, the best system can be seen as one that meets the following provisions:

- At every level there is equal expenditure, made according to the principle of subsidiarity and not duplicated at other levels.
- All administrative-territorial units have a full set of budget-funded institutions, ensuring that all the functions pertaining to the given level can be fulfilled without delegating them to another level.
- Expenditure must be standardised wherever possible; and the demands made on budgets and on officials should be as uniform as possible. This will allow comparisons to be made between different administrative-territorial units.
- Sources of income at any administrative and territorial level must be equally accessible for all the different ATUs of that level.
- Relevant sources of taxation must be secured to ensure the inevitability of payments into the respective local budgets.
- Considering the relatively high level of local taxes, a mechanism for regulating tax rates at local council level is needed to ensure the flexibility of budgetary policy for local self-government bodies.
- Subsidies to local budgets should not be high, so as to create incentives for local governments to widen sources of revenue. Under no circumstances should subsidies exceed 50% of all revenues.
- Budget transfer policy should ensure the fulfillment of certain functions, which should be accorded specific treatment by the state and known as “delegated” functions; on the other hand, subsidies should not act as a disincentive to local governments to attract revenue. The best scenario would be a subsidy under which the difference between planned revenue and transfers between the largest and smallest budgets per capita would amount to 20—40%.
- Concerning inherent competences, transfer policy should support not just certain spending functions, but rather the level of local budget income from local taxation which has come to be called “private” (in particular, that relating to real estate).
- Transfers for the performance of delegated functions must be made to every local budget directly from the state budget. Two variants are possible here: either the law on the state budget ratifies all the transfers, or it sets a fixed total volume of transfers, which are then redistributed according to a strict formula by the local executive bodies.
- Transfer policy must also be adequate for the task. In other words, the totality of local budgets that are subject to the uniform transfer policy must be homogeneous. Otherwise, calculations made on the basis of

one budget will not be applicable to others. The temptation to request special treatment based on the specific conditions to be found in this or that region will always linger in the background.

This list of criteria is not exhaustive. Moreover, some of the conditions are difficult to satisfy even in developed democracies. For example, the stipulation of low levels of subsidies is difficult to meet in Ukraine due to the relatively low rate of individual income tax, which represents the main source of local budget revenues. When looking at the macro parameters of local budgets, it can be seen that the total volume of transfers exceeds 30% of their size, which, due to the large differentiation between local councils, leads to large differences in their incomes and their dependence on subsidies. A single transfer to local budgets with subsequent redistribution by executive bodies is also hardly feasible. Due to the overlap of self-government and state functions in local state administrations, it is impossible to ensure an even-handed approach.

Nevertheless, these criteria should become guidelines for making decisions on changes to the system of power and budget relations, especially when implementing reform of the administrative and territorial structure.

The current state of social infrastructure in rural areas

The focus of administrative and territorial reform implementation will be the reorganisation of power in rural areas. To corroborate this assertion, it is necessary to analyze the social infrastructure and budget parameters of village and town councils.

This analysis uses data from the State Statistics Committee and the Ministry of Finance for all councils for the years 2005-2006. The councils were classified by size of population as follows:

Up to 200 people, 200–500, 500–1000, 1000–2000, 2000–5000, 5000–10 000, 10 000–20 000, over 20 000. The analysis is based on 11,000 village and town councils.

The distribution of councils according to their population is as follows:

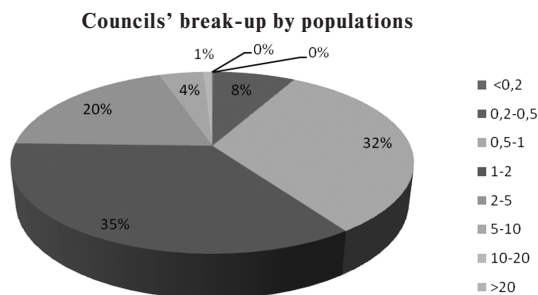


Fig. 11.

Most councils have a population of between 500 and 2,000 residents. At the same time, the majority of residents live in village council areas with a population of 2,000 to 5,000:

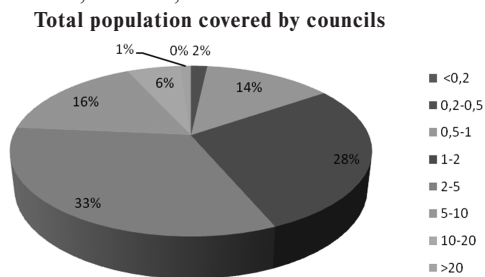


Fig. 12.

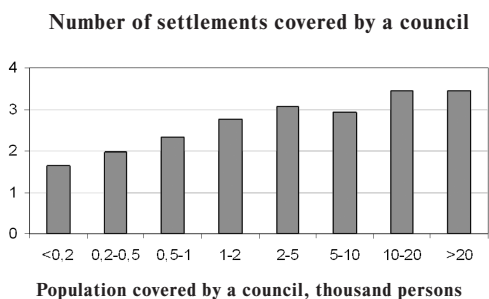


Fig. 13.

The vertical axis shows the number of villages and towns within a council's jurisdiction; the horizontal axis shows the population (in thousands).

The territory under a village council's jurisdiction grows in line with its population. However, councils with more than 20,000 residents have a relatively smaller area because of the greater number of multi-storey blocks of flats and better developed physical infrastructure.

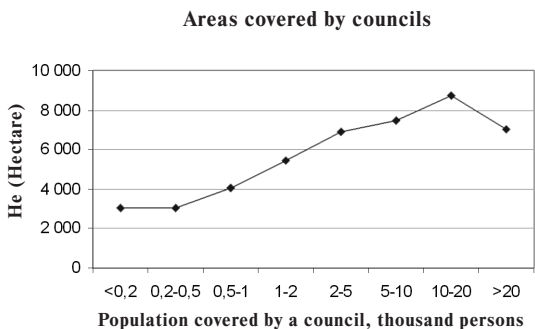


Fig. 14.

The vertical axis shows the area under village council jurisdiction; the horizontal axis shows the population (in thousands).

Analysis of changes in the size of populations within village council areas shows decreases at all levels up to 5,000 residents. The smallest village council areas tend to become depopulated the most rapidly in percentage terms. At the same time, village council areas with over 5,000 residents tend to grow, to a large extent because of the migration of residents from less-populated areas.

This points to a potential leveling off in the process of decline in larger administrative-territorial units.

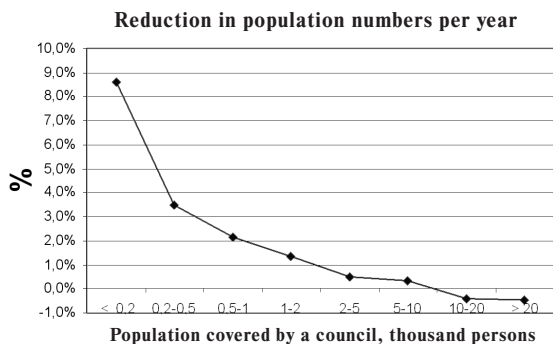


Fig. 15.

Regardless of the size of the area under a council's jurisdiction, in order to function it requires a number of public servants commensurate with the responsibilities of its local self-government bodies. Obviously, the larger the council is, the more effective its administrative apparatus will be, which also leads to an increased level of employment among its population, thus decreasing social instability.

Table 13

Council grouping (thousands of residents)	Council employees	% of population	% of working population
<0.2	4.3	2.8%	14%
0.2-0.5	4.6	1.2%	17%
0.5-1	5.3	0.7%	18%
1-2	6.2	0.4%	17%
2-5	8.9	0.3%	19%
5-10	14.0	0.2%	25%
10-20	18.1	0.1%	28%
>20	27.2	0.1%	30%

In the village council areas with less than 1,000 residents, the number of derelict homes is higher. Data on the availability of flats and houses per capita testifies to this.

Table 14

Council grouping (thousands of residents)	Number of houses	Living area (m2)	Number of flats
<0.2	1.04	55	1.06
0.2-0.5	0.57	33	0.58
0.5-1	0.49	28	0.50
1-2	0.42	25	0.43
2-5	0.36	23	0.40
5-10	0.30	22	0.39
10-20	0.23	22	0.39
>20	0.21	22	0.42

Except for first column, all figures are per resident

The availability of social and budget-funded infrastructure is shown in the following tables:

Table 15

Council grouping (thousands of residents)	Kindergartens	Schools (all)	Grade I (Infant)	Grades I–II (Infant/Junior)	Grades I–III (Infant–Senior)	Clubs	Libraries
<0.2	0.16	0.24	0.12	0.12	0.00	0.76	0.68
0.2-0.5	0.39	0.83	0.19	0.53	0.11	1.15	0.99
0.5-1	0.64	1.12	0.14	0.55	0.42	1.35	1.19
1-2	0.85	1.40	0.21	0.40	0.76	1.67	1.48
2-5	1.18	1.79	0.28	0.43	1.02	1.90	1.88
5-10	1.85	2.47	0.28	0.50	1.37	1.93	2.36
10-20	3.21	3.60	0.32	0.54	2.22	2.23	2.74
>20	4.89	6.00	0.33	0.78	4.00	2.78	4.33

Except for first column, all figures are per resident

Table 16

Council grouping (thousands of residents)	Healthcare facilities (total)	Hospitals	Out-patient clinics	Medical and obstetric centres	Sports facilities	Post offices	Religious buildings
<0.2	1.08	0.00	0.00	1.08	0.16	0.24	0.28
0.2-0.5	1.23	0.00	0.04	1.19	1.49	0.72	0.54
0.5-1	1.53	0.02	0.16	1.35	2.94	0.97	0.92
1-2	1.94	0.07	0.43	1.45	4.31	1.16	1.50

Council grouping (thousands of residents)	Healthcare facilities (total)	Hospitals	Out-patient clinics	Medical and obstetric centres	Sports facilities	Post offices	Religious buildings
2-5	2.41	0.24	0.74	1.44	5.96	1.38	2.13
5-10	2.66	0.64	0.95	1.07	10.69	1.71	3.00
10-20	3.15	0.78	1.01	1.34	14.11	2.51	3.01
>20	4.67	1.22	2.33	1.22	22.44	3.22	6.78

Except for first column, all figures are per resident

Considering that nursery schools, clubs, libraries (which are mainly located in clubs and schools), and first-aid/obstetrics centres are funded by village or town budgets, it is possible to accept that the infrastructure needed to fulfill statutory obligations is in place only in areas run by councils with over 2,000 residents.

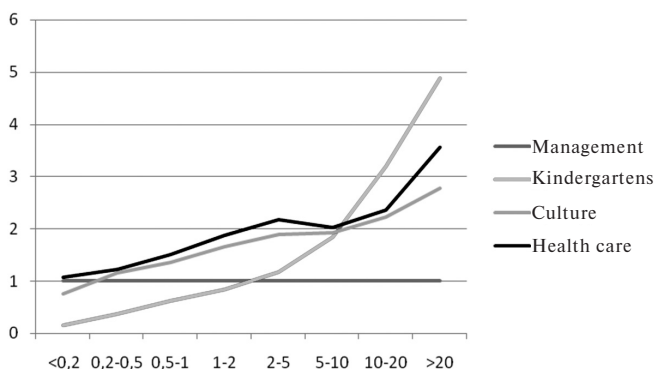


Fig. 16.

Pre-school institutions are a cause of major concern. In smaller village council areas, the decrease in the birth rate can be partly explained by the fact that young parents take the absence of kindergartens into account when planning their families. The number of future school pupils decreases accordingly, thereby lowering the motivation to maintain schools.

Only cultural and healthcare facilities are more or less in place, with the latter offering only basic first-aid and obstetrics services.

One of the most important public services is the postal service, i.e. post offices, which do not operate in all village council areas with less than 1,000 residents.

Even churches, as traditional tokens of community self-governance, do not function in all village council areas with under 1,000 residents, which constitute three-quarters of the total number.

This analysis of budget-funded and social infrastructure therefore gives reason to doubt the efficiency of local self-government bodies in village council areas that have less than 2,000 residents.

Analysis of village and town budgets

The lowest rung on the budgetary ladder — village and town budgets — provides the least room for manoeuvre within the budget system. Cities of rayon significance, despite having the same level of budgetary powers as villages and towns, have some chance of being transferred to the category of cities of oblast significance. Due to a lack of legal clarity, this process depends only on sufficient lobbying. Moreover, the Ministry of Finance formula used by rayon finance departments to calculate the size of transfers to the budgets of cities of rayon significance is very rigid and allows for only slight local interference. Village and town budgets, on the other hand, largely depend on rayon council decisions. The formula here allows the council to establish weighting coefficients for parameters such as population size, standard workforce size, number of settlements within the village council area, number of children, number of groups in the kindergarten, and so on. Of course, appeals can be made to rayon officials where there are suspicions of biased treatment in the allocation of village budgets, but one should bear in mind that this level is the final link in the chain of transfer payments from the Ministry of Finance, and that the transfer received from the state budget at rayon level is not only intended for distribution between the local government budgets — the lion's share of rayon budget expenditure goes on secondary education and in-patient hospital treatment. For that reason, the rayon finance department is forced by necessity to safeguard the balance between income and expenditure for the whole rayon.

More than five years of finalising the formula for calculating budget transfers would seem sufficient time to compile the database needed for implementation of the next stage of budgetary reform — the switch to direct transfers from the state budget to all local budgets. However, although this plan is technically feasible, its advisability remains open to question. Primarily this is because the budget infrastructures of village and town councils vary greatly, which practically nullifies the main advantages of the formula approach to payments, i.e. comparability and even-handedness.

An analysis of budget data reveals the following.

Budget expenditure per capita is high for councils with smaller populations and decreases and stabilises as councils become larger. This is in keeping with the formula approach, which is based on per capita calculations, i.e. public services per resident. Meanwhile, budget revenues initially go down but then start to climb for village and town councils with more

than 5,000 residents. Budget subsidies per head decrease in step with increases in population size.

The correlation between budget revenues and the size of a council is particularly interesting. These revenues mainly come from individual income taxes; this explains the relatively high value of revenues raised in small communities — they are mainly made up of the taxes paid by the employees of budget-funded organisations, primarily administrative bodies. This is confirmed by taking the figures mentioned earlier for the ratio of council employees to the total number of residents and comparing them with the total number of taxpayers in a council area. Only the larger village council areas start to show signs of economic activity, mainly due to the presence of commercial enterprises or factories engaged in the primary processing of agricultural produce. This dispels the myth that enlarging council areas does not lead to increases in budget revenues per capita.

Budget per one resident, 2006

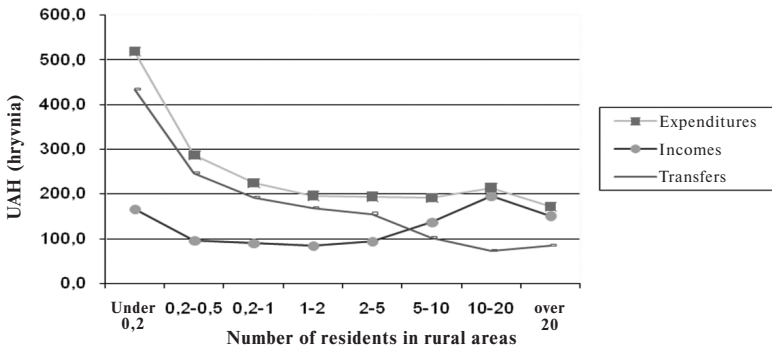


Fig. 17.

Tax payers share

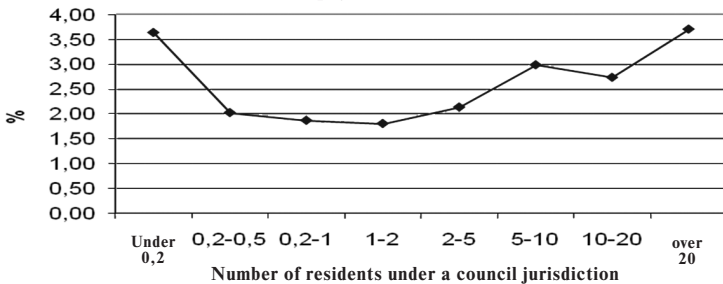


Fig. 18.

The largest portion of expenditure is accounted for by salaries, and only in village council areas with more than 10,000 residents does the level of capital investment start to approach the level necessary for the renewal of capital assets (above 5%). Larger councils also spend a higher proportion of their budgets on development, although according to European norms, development budgets are only worthy of the name when they amount to at least 10% of the total budget.

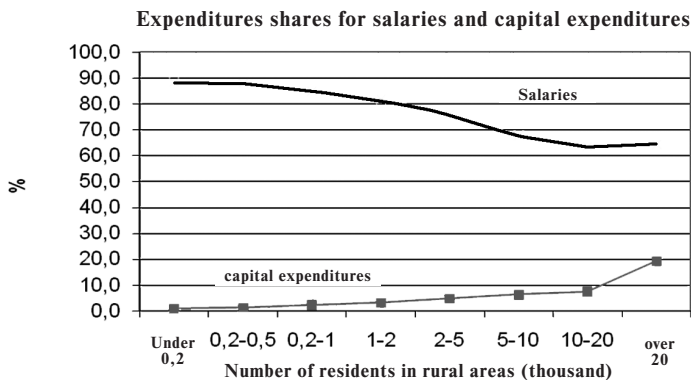


Fig. 19.

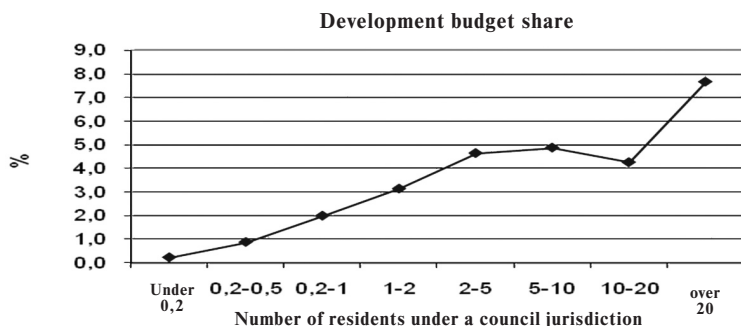


Fig. 20.

However, it is the structure of expenditure that is most revealing. Thus, in village councils with a small number of residents, the lion's share of spending is on council employees' salaries. The proportion of expenditure allocated to health care and culture is more or less independent of council size. Expenditure on education approaches the median value of local budget spending (35–40%) only in village council areas with over 5,000 residents. These areas also have some elements of an engineering infrastructure, as shown by their spending on housing and communal services, which are the main responsibility of local self-government bodies.

Expenditure shares, 2006

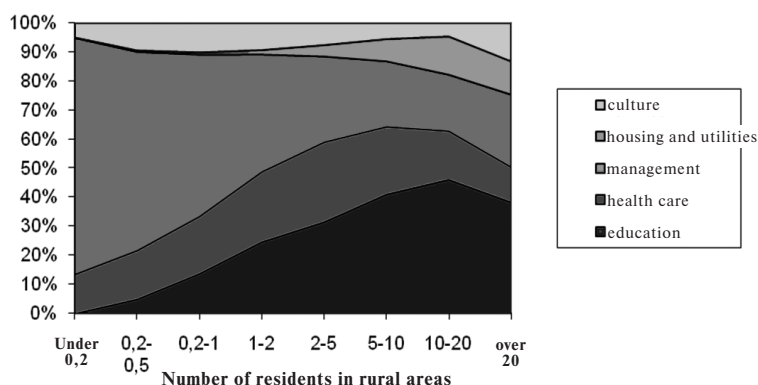


Fig. 21.

Thus the budget data show that economic activity and an acceptable level of effectiveness in local budget expenditure is observed in village council areas with over 5,000 residents. Such councils constitute only 5% of the total number of councils.

Interim conclusion

The foregoing leads us to the conclusion that setting up administrative-territorial units with over 5,000 residents is economically justified. Such administrative-territorial units obtain an impetus for economic growth and will be able to halt the spiral of decline of the village system.

5.3. Challenges and risks of reform implementation in recent years

Today, as in 2005, the probability of root-and-branch administrative-territorial and local self-government reform is still in question.

As in 2005, there are many who are willing to earn certain political capital by opposing reform; the situation in 2009, however, differs from that of 2005 in seven significant ways.

First: The system of executive power has a central body — Ministry of Regional Development and Construction of Ukraine — that is in charge of preparing reforms.

Second: In contrast to 2005, when in the absence of a concept for administrative-territorial and local self-government reform, a draft law “On territorial structure” was devised, in 2009 two conceptual documents were developed and agreed upon according to set procedure under Cabinet

of Minister Regulations — the Concept of Administrative and Territorial Structure Reform and the Concept of Local Self-Government Reform, which were approved in advance by the Ministry of Finance of Ukraine.

Third: Almost all oblasts in Ukraine have already conducted modeling for the creation of new communities under the modeling recommendations devised and approved by the Ministry of Regional Development and Construction of Ukraine. This modeling coincided to a large degree with the modeling undertaken by the ministry, thus confirming the validity of the methods and recommendations applied.

Fourth: The lack of available land in cities, which is needed for the development of business and the city itself, provides mayors with the stimulus to expand the city boundaries by naturally integrating neighbouring settlements into urban areas, as stipulated in the 2009 Concept. Real-life agricultural and industrial businesses also feel the need for the reform.

Fifth: Each oblast already has a group of people — oblast state administration officials, academics, community activists — who not only appreciate the need for reform, but can become real promoters of change.

Sixth: The lack of reforms during the period 2005–2008 has done nothing to ease the situation in regard to rural demographics, local budgets, and uneven regional and inter-rayon economic development. This situation must change and change can come about as the result of the reforms, not through their absence.

Seventh: The main political players must have finally understood that a qualitative leap in the economic development of Ukraine is not possible without reforms; for this reason, the leaders of the current parliamentary majority and of the opposition are ready, in theory, for the reforms (they claim so in their policy documents and numerous interviews in the mass media, and it is written in the Declaration of National Unity of 2006 and in the Coalition Agreement of 2007).

However, despite the positive differences between the situation of 2009 and that of 2005, a number of risks and threats remain.

1. Ukraine is entering a new election cycle.

In the second half of 2009, the presidential election campaign begins in Ukraine. Under these circumstances, it is unlikely that the current Ukrainian Government and the Verkhovna Rada of Ukraine in its present composition will find a way to launch reforms, thereby providing their opponents with new grounds for criticism.

2. Ukraine is facing a grave financial and economic crisis.

These days this argument is used pretty often to justify the absence of any change-triggering measures. In fact, it is in times of crisis that all reforms are implemented, as reform of the administrative system is the best way out of the crisis, and this is all the more true as a crisis come to an

end and a new period of growth starts. In this way, the reform will be perceived in the light of future growth and the reformers will wear the laurels of those who overcame the crisis.

3. Reform has never enjoyed full public support from the main political forces.

Politicians of the second echelon, often posing as their parties' and electoral blocks' spokespersons, have not received clear instructions from their leaders regarding support for the reforms, and they are either incapable or reluctant to formulate their own position on this issue. That is why the meaning of any innovation is often distorted and remarks crushing people's belief in important reforms are heard.

4. Populism remains the most popular tool in Ukrainian politics.

Unfortunately, the main political forces are still fascinated with populist ideas. They promise permanent payments to various categories of citizens and local self-government bodies without any reference to the real capacity of the state. Their desire to woo the electorate with promises not to change anything while simultaneously guaranteeing additional spending prevents them from implementing reforms. The desire to govern without making decisions can become the main reason for reforms being rejected.

SECTION 6. THE MASS MEDIA AND REFORM OF THE ADMINISTRATIVE STRUCTURE IN UKRAINE.

The history of reforms carried out in various countries proves that the success of a reform depends upon a number of factors: the political will of the team; the quality of preparation of the reform implementation stages; the adequacy of informational support.

The informational component of the reform is vital. The level of support or, conversely, of opposition depends on how the public perceives the reform.

As the overwhelming majority of politicians and officials at different levels cannot find the will or motivation to familiarise themselves with the draft legislation that creates the foundations for reform, it is hardly to be expected that ordinary citizens will be keen to read these dry official documents.

Therefore, information on the essence of the reforms, their phased implementation and possible impact is obtained by the public from the mass media.

The whole volume of reform-related information can be divided into a few groups:

1) Official information from bodies of power — draft documents, announcements and notifications from governmental and ministerial press services, decisions of executive bodies on reform implementation.

2) Information on events and measures taken within the context of reform preparation and implementation without journalistic or expert assessments.

3) Analytical information and professional and quasi-professional assessments — reform-related data through the prism of the personal perception of experts, members of the working group on drafting documents, academics, and journalists covering the respective topics.

4) Political, personal and scandal-mongering commentaries, forecasts and assessments — as a rule, unprofessional, shallow, quasi-analytical information that uses individual statements, taken out of the context, to make conclusions irrelevant to the meaning or essence of the reform. This information can contain blatant lies, is used to discredit the reform and its proponents, and may simply be paid for by those interested in putting a certain spin on coverage of events.

Naturally, the information in the first two groups is too complicated for most people to understand and is disseminated through official government sites or news agencies whose audiences are rather limited.

For this reason, the other two groups of information, targeted at as large an audience as possible, are the most important. Here, a lot primarily

depends on the journalists: how knowledgeable they are about the issues of reform ideology and implementation; how interested they are as citizens in the implementation of the reforms; how capable they are of impartial coverage of the reforms' positive and negative sides and the risks that can arise in the course of their implementation; whether promoting scandal and sensationalism will prevail over providing objective information in their coverage.

An analysis of mass media publications throughout 2005, just when Ukraine began preparing reform of the administrative and territorial structure, showed that the media consistently failed to offer detailed and reliable information on the meaning and potential positive impact of the reforms to average Ukrainians.

Unfortunately, a significant number of politicians, still playing a significant role in the Ukrainian political environment today, used the mass media exclusively to “fight the reform”, without offering anything constructive in its place.

The most reasonable materials were published in *Holos Ukrainy*, *Uryadovy Kurier* and *Dzerkalo Tyzhnya*.

Apart from articles written by the authors of the reforms in 2005, news and analytical articles offered by the mass media in 2005–2006 would have led an average Ukrainian citizen to more or less following conclusions:

1) In principle, reform is necessary, but not now and probably not even in our country.

2) The reforms are not ready and cannot be properly supported by the current government.

3) The reforms will lead to the ruin of cities, villages, towns, local governments, etc.

4) The reforms are far too costly and we can't afford them.

5) No village council — no school; no school — no village.

6) We'll never let the reforms happen and we'll be proud of the fact.

Excerpts from articles illustrating the position of “*Holos Ukrainy*” and some other publications in 2005 are provided below.

Holos Ukrainy, № 25, 25.02.2005, “Country's Territorial structure undergoes changes after elimination of certain state organs (newspaper exclusive)”

“A package of administrative reform” will be prepared after a meeting with the prime minister and consideration by the National Security and Defense Council, said V.Yushchenko. A presentation of the administrative reform package is scheduled for 01.04.2005. The goal of the reform is to “consider the subjects of budget planning in the light of changes to the territorial structure and to set up the units that could easily be modelled by the central budget”, the president said.

Deputy prime minister R. Bezsmertny argued that administrative and territorial reform must be carried out in one go. “Reform is a sharp scalpel. It is not used to inflict wounds, but to make a single precise cut. If we start to prolong the process, it will hurt”. He was speaking at a round table on the topic “Administrative and Territorial Reform — Pro and Contra”.

Anatoliy Matvienko, the head of the Verkhovna Rada Committee on State Building and Local Self-Government, is also convinced of the need to implement reforms. However, the process cannot be precipitated, he said. “Let’s consider what storm we’ll be setting in motion and whether we have enough resources for that. If everything works out well, we’ll carry out everything at once. If not, we’ll implement the reform in several stages”.

Holos Ukrainy, № 75, 23.04.2005, “The centre of administrative and territorial reform must be ... PEOPLE” by V. Oluyko, People’s Deputy of Ukraine, candidate of science in public administration, associate professor

There are 30,500 populated areas in Ukraine, united in about 12,000 territorial communities. In the meantime, Norway or Finland, which are half the size of Ukraine, have respectively only 450 and 460 such communities (communes, municipalities), while Sweden, which is a third of the size of Ukraine, has 228 communities. Visiting their parliament, I familiarised myself with a new draft law under which Swedish deputies intend to further reduce the number of communities.

They are, though, ready for that, and the quality of social services for the public is not under threat.

... The state is even less ready with its curtailed budget and a whole bunch of economic problems. Remoteness from the centre of the nation, the rayon or the oblast can completely bury the social and economic prospects of development for tens and hundreds of places which “left the village behind, but never made it to the city”.

As a people’s deputy, I offer my vision for resolving this issue:

1. First of all, the administrative and territorial reform process must be systematic — first a concept, then a draft law of Ukraine, followed by broad discussion among deputies of all levels and the public at large.

2. Territorial reform must start with a local experiment in an individual oblast, where all the possible consequences can be monitored.

3. The Ukrainian government together with local authorities must deal right now with the ongoing reform of state institutions and enterprises, which is ad hoc and not coordinated in any shape or form by the Commission for Administrative Reform in Ukraine, thus causing public discontent.

The Cabinet of Ministers of Ukraine must approve by resolution the implementation programme for each oblast, which would envisage funding from the state budget of Ukraine.

Holos Ukrainy, № 78, 28.04.2005, "Give power to communities!"
by O. Horbunov and V. Korolyuk

The first All-Ukrainian Assembly is over. Participants' positions vary. No doubt, this large-scale event, conducted for the first time since independence, provided the opportunity for officials and local self-government representatives not only to meet and talk to each other, but also to join efforts in identifying the most urgent problems.

Problem number one — poverty.

At present, the territorial communities have neither the levers nor the incentives to develop regional economies. There is only one possible solution — decentralisation of power, the head of state stressed.

Administrative reform. The majority of delegates had doubts as to its implementation. Agreeing that it is necessary, they at the same time argued that there is no need to hurry. Thus, Mykola Shkraban, a deputy of Poltava oblast council, said that simultaneous implementation of administrative and territorial reforms and changes in the election law and Constitution can lead to an absurd situation. "I wouldn't want to turn up in an operating theatre where a group of surgeons is trying a new operating method, the anesthetist — new methods of pain-killing and the medical technicians are testing their new equipment". "In my opinion," he said, "a single experiment — the most important one — should be chosen."

Communist Party leader Petr Symonenko, in his turn, suggested holding a referendum on the issue, also arguing that a reform launched under conditions of crisis is doomed to failure.

Holos Ukrainy, № 84, 11.05.2005, "Ukrainian self-government needs a clear-cut strategy" by Volodymyr Lytvyn, Head of the Verkhovna Rada of Ukraine

The government's draft law on administrative reform unfortunately gives cause to believe that it may, as happened in Soviet times, amount to a merger of administrative-territorial units and the creation of additional barriers to contact between the public and the authorities.

From the very beginning of its existence, local self-government was implemented without a clear-cut development strategy. Unfortunately, such a strategy is still not in place.

Holos Ukrainy, № 84, 11.05.2005, "Only a referendum can resolve issues of territorial change" by V. Korolyuk (On further steps in self-government development in Ukraine)

According to the participants in the assembly, before the issues of administrative and territorial reform can be addressed, there must be decentralisation of power and delegation of a substantial portion of com-

petences and finance to local levels. Actually, a similar position was expressed by Prime Minister of Ukraine Yulia Tymoshenko, who remarked that administrative and territorial reform had not been discussed at cabinet meetings, so she had heard the deputy prime minister's ideas on the subject for the first time at the assembly. Tymoshenko thinks that a referendum in the course of reform implementation would possibly be useful.

Holos Ukrainy, № 91, 20.05.2005, "Deeply concerned about the territorial structure", by A.Berkuta, head of rayon council

We, the deputies of Kozelshchyna rayon council, Poltava oblast, have familiarised ourselves with the draft law "On Ukraine" and are deeply concerned about its provisions.

Therefore, having discussed the situation in the districts, we, the rayon council deputies, arrived at the conclusion that the quality of life among the rural population, a significant portion of whom lives bellow the poverty level, makes approval of this draft impossible. We believe that the issue concerning the fragmentation of administrative-territorial units needs further research, especially in the part concerning rural areas, with due consideration given to public opinion.

Holos Ukrainy, № 113, 2005, "Administrative reform is the ruin of the village". Statement by Oleksandr Moroz on behalf of the parliamentary faction of the Socialist Party of Ukraine

The Ukrainian village is once again facing the threat of destructive experiments. Some time ago many historic settlements, small and medium-size villages, disappeared after being pronounced economically unviable. Even in modern times these criminal experiments continued. Unfortunately, the ruination of village and rural communities is planned once more. The administrative and territorial reform under discussion blindly follows western approaches to the local self-government organisation without taking into account the specific nature of the network of populated areas, Ukrainian traditions or lessons from recent history, when experiments in merging agricultural areas and village councils only worsened the life of peasants.

Socialists, as part of the government coalition, propose a moratorium on these experiments on villages and their residents, the adoption of real measures to bring village economies and infrastructure out of the stagnation caused by the unreasonable policy of the former government, and the implementation of administrative and territorial reform only on this basis, with due consideration given to our traditions and capabilities.

Holos Ukrainy, № 121, 06.07.2005 “Reform of the administrative and territorial structure: undercurrents and hidden rocks”. By Vitaliy Zhuravsky, head of the Christian-Democratic Party of Ukraine, doctor of law, professor.

The first significant discrepancy between the “reform” and the Constitution of Ukraine: current constitutional provisions guarantee the right of local self-government to the residents of any location, so to speak, by the very fact of the location’s presence on the map of Ukraine; if the reform is implemented “successfully”, this right will be granted only to “communities”, whose territories are defined, although on the basis of the aforementioned criteria, but still administratively.

If the “reform” is approved, the country will have to undergo a period of rayon restructuring, the elimination of a certain number of administrative-territorial units or their merger with other rayons.

Therefore, careful and objective consideration of the proposals currently known as “administrative and territorial structure reform”, shows that they are not really advantageous from the state-building point of view. However, the reform’s initiators obstinately and persistently demand their immediate implementation.

It would appear that the desire to change the administrative and territorial structure as soon as possible is dictated not by concern for the state or its citizens, but by political ambitions. Thus, the real motive here can be summed up by the adage well-known since the days of Ancient Rome: “Divide and rule”.

Holos Ukrainy, № 143, 05.08.2005, “Administrative and territorial reform — a way to the country’s future stability”. People’s Deputy of Ukraine, candidate of economics, V. Korzh.

It is noteworthy that both academics and politicians are offering their proposals concerning the necessity of radical changes in the country’s system administrative-territorial of units. These are not only inconsistent with the Constitution of Ukraine, but in overwhelming majority of instances are not supported by serious arguments. Their potential implementation in the present situation can lead to significant economic, social, political and other adverse consequences. No one, obviously, will dispute the fact that ATUs must satisfy public interests and need amending. This is, however, not a one-off measure, but a clearly defined and targeted system of activities, based on a relevant concept and combined with the specific features of budget-forming aspects.

I believe that territorial reform is necessary, but it should be implemented in several stages, only after all unforeseeable points are taken into account, as administrative and territorial reform is a way to the future stability of the country.

Review of “Dzerkalo Tyzhnya” newspaper

№ 6 (534) 19—February 25, 2005, “Pseudo-reform” by Yegor Sobolev

The new president’s team began administrative reform with the abolition of agencies. This is a bad sign. The problems in the state machinery are caused not by the number of bureaucrats, but by the way they operate. Deputy prime minister Bezsmertny, who is in charge of administrative reform, acknowledges that so far there is no general plan in place.

№ 34 (562) September 3—9, 2005, “Glimpses of future reform” by Oleh Berezyuk (Kyiv Legal Society)

Before introducing any changes one should know exactly what is to be changed and be completely aware of the social and economic consequences of the transformations. Today the opponents of the reform forecast that it will have a negative impact on society, while its supporters argue quite the reverse — that this reform is absolutely necessary for the state and that it will bring benefits to the people.

Let’s tackle the problems of the basic level administrative-territorial units. *First of all, a whole range of practical problems is caused by the absence of regulations for establishing boundaries between the relevant administrative-territorial units. Thus, for example, Vyshgorod rayon council on 26.12.2001 took the unilateral decision to change the boundaries of the city of Vyshgorod. A part of the city’s territory, inhabited by the main tax-payers, was arbitrarily taken away and given to Novy Petrivtsy village, 3 km from Vyshgorod. Obviously, the decision is both unreasonable and illegal.*

The next issue consists of the fact that not all territorial communities have the material or financial resources to guarantee the delivery of social services to the public. Obviously, these communities need to be brought together, but this should only be done on a voluntary basis.

Therefore, reform of the administrative and territorial structure is necessary and even unavoidable, but it should be well thought-out and rational. Moreover, there is no need to invent something brand new. All we need to do is to turn to the best practices for resolving these issues used in the member countries of the European Union and to implement the principles spelt out in the European Charter on Local Self-Government. Since January 1, 1998 these have been part of the national law of Ukraine.

№ 39 (567) October 8—14, 2005, “Will Ukraine become a country of self-governed communities?” by Valery Druzhbinksy

In recent years, serious shifts in public awareness have dramatically altered people’s perception of power and power itself. People

have become the initiators and agents of change. This is the main reason why the current ruling elite positions itself as the people's power.

Preparations for administrative and territorial reform have been underway for several months. The reforms aim to improve the governance system at the regional and local levels and to completely decentralise state power, thus contributing to the development of local self-government. Reform-related issues were the focus of the Ukrainian Municipal Forum in held Alushta, which was organised by the Association of Ukrainian Cities and Communities.

We asked some of the forum participants to share their positions concerning the draft reform.

Viktor Antonenko, mayor of Boyarka, Kyiv oblast, vice-president of the Association of Ukrainian Cities and Communities:

— The reform proposed by Bezsmertny has a number of aspects. In the first place, its financial and material provisions. Secondly, the legal and normative changes needed for the reform. Third, the necessity to understand what the reform's goals are and how it is perceived by the public. The answers to all these questions are negative.

Inadequate local budgets, the comatose state of housing and communal services, life-long conflicts between local self-government bodies and executive bodies, combined with permanent pressure applied by these bodies' officials on the elected senior staff of territorial communities with the aim of satisfying the former's political and corporate ambitions — this is the picture of present-day local self-government. You might add the almost total absence of funds needed to provide social, cultural and communal services for the public. Local councils have neither the tools nor the incentives for development.

As you can see, nothing has changed with the arrival of the new government, and in some areas the situation has even deteriorated.

The reform's authors constantly refer to the Polish experience. But Poland had 12 billion Euro from the European Union to implement its reforms. Who will give us that kind of money? And it takes huge funds to carry out reform. Kyiv oblast alone will "consume" 1 billion hryvnas. I'd also mention that we need to spend 500 million hryvnas to complete the connection of villages in the oblast to the gas network. So what is better: a reform dreamt up in management offices or gas in every village home?

Andriy Huslavskiy, mayor of Kremenets, Ternopil oblast:

— I am convinced that administrative and territorial reform must be implemented. And without delay. The main thing is not to invent our own Ukrainian bicycle, but to follow the example of other countries that have done it already. Look at Poland! However, I believe that we will not blindly copy the Polish model. Ukraine has its own history and specific territorial

structure. These Ukrainian factors must be taken into account in preparing and implementing the reform. And it must be done. Although the reforms might adversely affect individual citizens.

Gennady Kaluzhin, village council head, Dobre village, Symferopol rayon, ARC:

— The Simferopol-Yalta international highway goes through our Dobre valley.

I've been the chairman of the village council for 15 years and the first person in Crimea to be awarded the title of Honoured Local Self-Government Official. I believe that nowadays you would not find a single local self-government body that performs its legal duties using local budget funds. This means that the old communist system of administrative and economic management through the administrative vertical and tax and budget policies has been revived in Ukraine.

As far as the reform goes, our concern is that village of Dobre will be split into four communities, 5,500 residents in each. That's why the general assembly of the residents of all the villages that come under Dobre village council jurisdiction has passed the following resolution: "We believe that the conditions for social and economic development and the territorial structure of the area under the jurisdiction of Dobre village council are most favorable, and reform of our council is unwise."

Serhiy Klochko, acting mayor of Sumy:

— My attitude to the draft law "On the territorial structure of Ukraine" is negative. You know, as a real Ukrainian, I hate being pressured and forced to make a decision without knowing for certain that it will be the right one. That doesn't work with us Ukrainians!

Today we have 18 rayons in the oblast, while after the reform this number will be reduced to 6 or 7. **The towns that are deprived of rayon centre status will virtually fall into decay and cease to exist. This is obvious to everyone in both cities and villages, and only the reform's authors, Roman Bezsmertny in the first place, seem to be unaware of the problem.** Are they really so convinced of their own infallibility?

Our new powers-that-be are busy with the reform, and have no time to think of the people. They prefer to ignore the situation in every individual village, in every town and city, as they think and act only globally. They are unaware of the fact that once the reform is implemented, people will start leaving the villages and towns that are merged with other units (and there will be thousands of those!) for the city.

It is a shame that huge state resources are allocated not for youth development programmes, health care or the promotion of culture in rural areas, but for silly and absurd innovations.

Serhiy Kovnir, mayor of Hlobyne, Poltava oblast:

— Personally, I am in favour of the reform because three years ago I observed the results of a similar reform in Poland. I went to see a town similar to Hlobyne (also 13,500 residents). Our town is the centre of seven villages, while the town in Poland is the centre of ten. But... the level of budget spending per capita is 60 times higher than in Hlobyne. Here the figure is 30 US dollars per year, while there it amounts to 1800 US dollars. It is also important that their taxation system differs from ours in the sense that a lot of revenues stay in the territorial communities.

Our roads are awful. There is even an apt saying: all roads lead to Rome, but no road leads to us. However, judging by Bezsmertny's plans and "projects", the reform will deal only with the slicing up of territories and not with road improvements.

Don't get me wrong, some rayons probably need enlarging or merging. In our oblast we have some rayons which, in terms of population, are smaller than our town of rayon significance. **However, everything must be done sensibly. No offence intended, but ordinary people say that those who invented the reform are floating in outer space. It seems like only bureaucrats, and possibly geographers, took part in drafting the reform. It would be advisable to bring together economists, sociologists, demographers, cultural experts, teachers, medical workers, and state-building specialists to work on a project of this scale ...**

Leonid Martynyuk, former head of rayon administration, Novohrad-Volynsky, Zhytomyr oblast:

Naturally, the new senior officials appointed from the top will approve any reform dictated from Kyiv without consulting the public. Actually, we are hearing the shouts of "We agree!" already...

I don't believe in the reform. It disregards the specific characteristics of the regions. There are villages with only 500–1,000 residents, but they are fully-fledged units with good prospects for development. There are others that have 5,000 or more residents but no prospects, due to bad management or lack of specialists. Another example. We have Polish communities in the village of Susly and other villages. They would like to join together in one community. But under the new reform they will be divided. And what about Odessa oblast? One village there is inhabited by Moldovians, the next one by Bulgarians and a third by Gagauzes. What's the solution there?

And what about **psychological and moral** aspects? Up until now, people have been living in a city, in a rayon centre, and after the reform all these places will be reduced to the status of villages. The reform must enhance people's status, give their lives a new impetus, and not hit them on the head, create further problems or humiliate them. That's why everything cooked up by Bezsmertny & Co is a **utopia, a fantasy** and not a realistic, well thought-out proposal. Anyone can wave a sabre around.

Anatoliy Negra, mayor of Hola Prystan, Kherson oblast:

— We've already had so many reforms! Not a single one of them brought any benefits to the people. I personally asked Roman Petrovich (Bezsmertny): "Are you sure things will change for the better?" "I am," he said. "And who will take responsibility when the reforms create havoc all over the country and bring about the ruin of thousands of villages? You should have consulted the people". "During previous reforms, did anyone ever consult the people?" was his reply. Previously, though, authority was handed down from the top, while now the authorities are elected by the people. These authorities, however, do not listen to their electorates either and act contrary to the public interests.

I remember Bezsmertny reprimanding city mayors at a meeting in Odessa: "You are just begging for money all the time, you don't know how to do anything else." That's not true, I am not begging for money. I only ask that what we have earned stays with us. The arithmetic is simple: if local self-government bodies have more competences, many state institutions will become redundant. Many agencies, departments, ministries and divisions will no longer be needed. So I say to the President of Ukraine and his team: **"Don't go in for the reforms authored by Bezsmertny; reform the bodies of state power at local levels instead."**

Olena Panova, town council chairperson, Smolyne, Kirovohrad oblast:

— I haven't studied the reform in detail, because it does not apply to my community. Even if the oblasts are restructured, we don't care — Smolyne is 100 km from Kirovohrad, and 120 km from Cherkasy. It doesn't matter what they attach us to. All Ukrainian atomic power stations use our fuel.

The reform will make the quality of life in remote areas worse. Isn't it obvious that two or three poor villages are not about to become rich just by virtue of their unification? And they say that the reform will be implemented using funds raised by banning tax benefits for peasants — the fixed agricultural tax, the single land tax... **Administrative and territorial reform** is the last straw for the village. And the Ukrainian village will not survive it.

Viktor Slysh, town council chairperson, Nova Vodolaha, Kharkiv oblast, head of the Association of Village, Town and City Councils of Rayon Significance of Ukraine:

— The Bezsmertny reform can be very beneficial for Ukraine. However, about 300 laws must be changed or amended before it can be implemented. Only after that can the reforming start. ` Our country is poor because for 14 years its budget has been embezzled. Instead of taking the money from oli-

garchs and giving it to the villages, the authorities have devised an administrative and territorial reform — another way to dupe the people.

Valentyna Shashko, city council secretary, acting mayor of Polohy, Zaporizhia oblast:

— The reform is needed, but not now. While the administrative reform could eventually be implemented, we will not be ready for the territorial reform for many years to come. In the meantime, rayon councils should get back the competences they had before, because nowadays they no better than film extras.

In my opinion, we should be discussing not the Bezsmertny reform but the system of power at the local level. Our main problem is excessive centralisation. Rayon state administrations interfere with the operations of local self-government. The time has come to change the system of state power at local level.

Zinovi Shkutyak, mayor of Ivano-Frankivsk:

— Ukraine cannot avoid the reform. The whole world has been through it. If the reform is implemented later, we'll waste precious time.

Concerning Roman Petrovich, he reminds me of a Ukrainian saying: "You can't be all things to all people". As head of the oblast organisation of the "Our Ukraine" People's Union, I know Bezsmertny as dedicated and honest person. Yes, many are unhappy with him. However, in his efforts to promote the reform he is not thinking of himself, but about the welfare of Ukraine.

Volodymyr Yalovy, deputy mayor of Kyiv and secretary of Kyiv city council, head of the Union of Local Council Secretaries under the Association of Ukrainian Cities and Communities:

— I disagree with the proposed time-scale for implementation of the reform. Roman Bezsmertny proposes to carry it out before elections and, if we don't make it, to move the local elections to the autumn of 2006. In my opinion, it is not feasible to carry out such a large-scale reform within such a short period. At least 300 laws have to be revised or adopted. Can our parliament do that within one year? I believe that systematic reforms will take years and years to implement. The decentralisation of local power, however, must be put into practice now. I propose forgetting about the word "reform" and implementing real decentralisation of power instead.

Interim conclusions

1. The public relations campaign for administrative and territorial structure reform was not successful for its backers in 2005.

2. The mass media mainly presented reform-related issues as a serious threat for the whole of society, although the real threat existed only for a small number of bureaucrats who might not have found new positions

under the new system of governance, which would have been more transparent, particularly in its structure, and more responsible for its actions and decisions at each subsequent election. Along with extra competences, it would have obtained more resources under the law.

3. Comments on the content of the reform given to the mass media by village and city mayors, rayon council deputies, and even people's deputies of Ukraine, show that they had not had the chance to familiarise themselves with the reform in detail. Comments like "let's not talk about reform, but introduce decentralisation instead" prove that people fail to understand the fact that the decentralisation of power is a direct outcome of the reform!

4. Politicians representing the then ruling majority were not involved in preparing the reform, and therefore even political forces that were part of the parliamentary majority at the time never demonstrated support for the reform.

5. An additional blow was dealt to the reform's developers when the mass media published materials on the lack of understanding of the reform — in terms of both its necessity and its substance — within the government. This finally sounded the death knell for any reform-related activity.

6. The mass media failed to fulfill their function — to provide impartial coverage of the content and essence of the proposed reform for the benefit of the public at large. Instead, they contributed to creating a negative image of both the reform and the reformers.

FINAL REMARKS

The information presented in this study provides grounds to argue that the need to improve the administrative and territorial structure has always existed in Ukraine, or at least throughout the 20th century.

In each specific period of history, the state, which tried to respond to emerging internal and external challenges, had to seek new models for state governance and management of its territories. Consequently, it had to change the system of the administrative and territorial structure and correspondingly the system and competences of local bodies of power.

Generally speaking, the significant number of transformations in the administrative and territorial structure that have taken place in Ukraine over the last century, and even the last 50 years, show that the administrative-territorial entities currently in place were formed not so long ago and not always in the natural course of events. There are, then, good reasons to argue that their reorganisation, based on the natural settlement of people, with due consideration given to historic issues and the demographic and economic realities of our time, is objectively necessary and should not create additional problems or obstacles for the people who live in them.

Reform of the administrative and territorial structure is not an end in itself. It merely creates an environment for the operation of regional and local level bodies of power and must be implemented in its totality. When implemented in the right way, reforms significantly accelerate the development of a country and its territories.

Implementation of any reform requires passionate advocates and political support from the state leadership. Without these elements, it is doomed to failure.

Administrative and territorial reform in Ukraine is necessary in the extreme. Without it, the efficient development of the state is out of question.

The draft Concept of Administrative and Territorial Structure Reform together with the Concept of Local Self-Government Reform which were analyzed in this study are well developed and comply with both European practice and Ukrainian experience. They are based on natural settlement processes and apply the principles of spatial polycentrism. Therefore, they have a chance of success.

Unfortunately, the current situation in Ukraine can be compared, to a certain extent, to that of 2005, so there is a serious risk of failure at the initial phase of reform implementation, although that is less than in 2005.

It can objectively be seen that a general understanding of the need for administrative and territorial structure reform is constantly growing among officials and public servants at different levels.

Today, however, the reform is facing a new threat. Some senior officials have proposed conducting experiments in reform implementation. More specifically, this would involve selecting and merging four to five populated areas in different oblasts. This model of administrative and territorial structure would then be tested for viability.

This road leads us nowhere. The reform of the administrative and territorial structure envisages not just the merger of units, but substantial changes in the legal regulation of budgetary policy (new relations between budgets of different levels); in taxation policy (the introduction of new taxes and distribution of national taxes between various levels of power); in the competences of and relations between local self-government bodies and between the local self-government bodies of the newly formed units and bodies of executive power (rayon and oblast state administrations).

To be conducted correctly, the “experiment” will require the adoption of new legislation as set out in the Concepts of Administrative and Territorial Structure Reform and Local Self-Government Reform, and recognition of the parallel existence of two legal systems in Ukraine — one for the “experimental communities” and the other for the rest of the country. This is impossible in principle as it contradicts both the Constitution of Ukraine and common sense.

This new risk, which emerged only recently, is fairly serious, as the “experiment” might be politically advantageous for the powers-that-be, as they are seen to be taking the plunge into reform, and for reform opponents, who will apparently have nothing to do with the reform, but definitely not for the Ukrainian people, who have few hopes for rapid progress unless reform is carried out.

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Draft Concept of Administrative and Territorial Structure Reform in Ukraine

The Concept of Administrative and Territorial Structure Reform in Ukraine (hereinafter — the Concept) defines: the main organisational principles for the administrative and territorial structure of Ukraine and for creating administrative-territorial units; their types; the organisation of public authorities in correspondence to the administrative and territorial structure at the respective levels; legal support for administrative and territorial structure reform and the phases of its implementation.

1. Problems addressed by the Concept

The main problems that the current administrative and territorial structure of Ukraine faces today include:

- Lack of structural regulation;
- Absence of uniform classification for administrative-territorial units and obsolete mechanisms and criteria for their categorisation;
- Significant disparities in available resources and levels of social and economic development between administrative-territorial units of the same level;
- Lack of correlation between the status of many administrative-territorial units and their resource potential;
- Presence of administrative-territorial units of a certain level within another administrative-territorial unit of the same level;
- Non-compliance of administrative-territorial units with European Union recommendations on administrative-territorial units;
- Presence of territories under the jurisdiction of certain administrative-territorial units within the territory of other administrative-territorial units of the same level;
- Irrational distinctions between individual administrative-territorial units;
- Excessive fragmentation of administrative-territorial units at the basic level (over 12,000) and rayon level (over 500), reducing the efficiency of and control over the services they provide.

The irrational administrative and territorial structure of Ukraine results in:

- Duplication of powers of public authorities at different levels of the administrative and territorial structure, which leads to the lack of

coherence between the competences of local self-government bodies and local executive bodies;

- The impossibility of a strict distribution of powers between local self-government bodies and local executive bodies or between local self-government bodies at different levels of the administrative and territorial structure; this decreases the effectiveness of public authorities and engenders lack of responsibility;
- Ineffective supervision of the activities of local self-government bodies by local executive bodies;
- Complications in land relations because of the existence of land under no specific jurisdiction and land with several owners that are subjects of public law, which leads to its inefficient exploitation;
- Lack of correlation between the level of local self-government bodies that make decisions on land issues and the level of importance of those issues, which heightens risks of corruption;
- A two-stage inter-budgetary transfer system, leading to unequal provision of services to the public by budget-funded institutions at the city-of-rayon-significance, town, and village level;
- Inefficient use of resources allocated for the activities of public authorities in administrative-territorial units with populations significantly smaller than is reasonable in respect of workloads for budget-funded institutions;
- Lack of attractiveness to investors due to the complicated system of administrative relations;
- The impossibility of devising uniform criteria to assess the efficiency of spending on the running of administrative-territorial units of the same level;
- Collapse of the rural budget infrastructure, especially at the periphery of rayons, and the subsequent acceleration in migration from rural areas.

The creation of an efficient and coherent system for the administrative and territorial structure of Ukraine can be achieved by reforming it according to the principles set out in this Concept.

2. Objective of administrative-territorial structure reform

The objective of administrative-territorial structure reform is to define a rational spatial basis for the organisation of public power and to ensure the provision of accessible and high quality social and administrative services for the population, the effective exploitation of resource potentials, the sustainable development of territories, and the capacity to adequately respond to social and economic challenges and to implement state regional policy.

3. Ways and means of problem-solving

In order to define the territorial basis for creating an efficient system for the organisation of power, it is necessary to establish:

- requirements for the organisation of the administrative and territorial structure;
- the legal status of administrative-territorial units;
- requirements for the formation of administrative-territorial units;
- a system of public authorities that corresponds to the administrative and territorial structure;
- the organisation of governance at the local level.

3.1 Requirements for the organisation of the administrative and territorial structure

The basis of the administrative and territorial structure in Ukraine is the network of populated areas — cities, towns and villages — as sites of permanent consolidated human residence. The classification of localities according to these categories is based on the size of population, level of urbanisation, organisation of the communal economy and nature of residents' economic activity. They provide the basis for the formation of administrative-territorial units (hereinafter — ATUs) of three levels — communities, rayons, and regions.

An administrative-territorial unit is a compact portion of the unified territory of Ukraine, which is the spatial basis for the organisation and operation of state administration and local self-government bodies.

The administrative and territorial structure is reformed with due consideration of the following requirements:

- Harmonisation of the system of ATUs, which are created for the exercise of local self-government, with the territorial structure of local executive bodies and other bodies of authority;
- Ubiquity of the jurisdiction of state authorities and local self-government bodies over the territories of the respective ATUs, with the exception of specific territories with special status, where specialised administrations are set up under specific laws;
- Convergence of an ATU's boundaries with the boundaries of neighbouring ATUs of the same level;
- An ATU's territory can be located only within the boundaries of a single ATU of a higher level;
- Application of the principle of subsidiarity in defining the competences of public authorities at each ATU level;
- Each level of ATU has competences, including branch competences, where it enjoys primacy in relation to other levels, which justifies the creation of such a level of ATU.

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- Compliance of the number of subjects of state administration, coordination or control within the sphere of influence of each public authority body with the requirements of effective management;
 - Compliance of the administrative and territorial structure with EU requirements concerning NUTS (Nomenclature of Territorial Units for Statistics).

3.2 Legal status of administrative-territorial units

All bodies of public authority (local self-government and local executive bodies) created on the basis of ATUs are subject to:

- Uniform requirements regarding competences related to the provision of social and administrative services in accordance with social standards defined by law;
- Direct communications with the central authorities;
- A uniform system of statistic reporting.

The local budgets of each ATU have direct inter-budgetary relations with the state budget of Ukraine.

When an ATU is created or reorganised by an Act of the Verkhovna Rada of Ukraine, its name, boundaries and administrative centre are approved.

3.3 Main requirements for creating and reorganising administrative-territorial units

In the process of making decisions on the creation and reorganisation of administrative-territorial units, the following requirements must be taken into consideration:

1) Complete and exclusive competence of public administration bodies of the same level — local self-government bodies and local executive bodies must have the capacity in terms of infrastructure, personnel and finance to execute the competences defined for them in accordance with their ATU level;

2) Integrity of ATU territories. No other administrative-territorial units of the same level should exist within the borders of the territory of an ATU. The ATU administrative centre should be located as close as possible to its geographical centre;

3) Low levels of state subventions of local budgets — subsidies should not reduce incentives to enhance the tax base defined in ATU budgets;

4) Universal nature of ATUs — disparities in territory between ATUs of the same level must be within statistical deviations that permit the development of an integrated state regional policy;

5) Ability to withstand political, demographic and economic challenges, absence of internal destabilising factors;

6) Numbers of public service users should correspond to standard workloads for the sector and budget funding capacities;

7) Capability of local self-government bodies in ATUs to make necessary though unpopular decisions, in particular concerning local taxes, charges and tariffs;

8) Principle of mutual complementarity — ATUs, especially those at higher levels, must maintain a balance between rich and poor areas and between territories with narrowly specialised and diverse economies, which will facilitate the provision of more equal access to public services.

3.4. Community

The community is the basic level of the administrative and territorial structure in Ukraine.

A community is an ATU, which is made up of one or more populated areas, and which is the territorial basis for the operation of local self-government bodies in providing key public services to the population.

A community is formed, as a rule, by amalgamating populated areas and their adjacent territories around one populated area (a city or town) that is the centre of economic activity, with the main places of employment for residents of the surrounding area and superior elements of budget and engineering infrastructure and transport access compared to neighbouring settlements.

The maximum distance of settlements from the community's centre is usually defined by basic requirements in relation to public services at this level — above all by: the period of time required to provide emergency medical assistance (15–20 minutes), the time needed to bring students to school by school bus (15–20 minutes); and the time needed for rescue workers to arrive in emergency situations (up to 15 minutes).

Where it is not feasible to establish a community around a centre of economic activity, the community is formed, with due observance of the criteria of accessibility to public services, around a village / social development centre, which is defined as the populated area located as close as possible to the geographical centre of the newly formed community.

3.5. Rayon

The rayon is the administrative-territorial unit of sub-regional level.

A rayon is set up subject to the conditions of efficient management as an interim level between the basic and regional levels.

A rayon consists of communities.

Rayons, as a rule, should conform to EU recommendations on NUTS 3.

3.6. Region

The region is the administrative-territorial unit of regional level. The term “region” is used to define the Autonomous Republic of Crimea and oblasts.

A region consists of rayons.

Regions, as a rule, should conform to EU recommendations on NUTS 2.

3.7 Administrative and territorial structure of the cities with special status — Kyiv and Sevastopol

The powers of the community, rayon and region are exercised on the territory of the city with special status Kyiv. To that end, ATUs are formed — Kyiv city-region, and city rayons of Kyiv.

The powers of the community, rayon and region are exercised on the territory of the city with special status Sevastopol. To that end, ATUs are formed — Sevastopol city-region, and city rayons of Sevastopol.

3.8 Organisation of public authority bodies

The distribution of powers between public authority bodies set up within ATUs of different levels is performed in accordance with the principle of subsidiarity and is defined by law.

Local self-government bodies and offices of central executive bodies are established at the community level.

The rayon is the basic level for local executive bodies with general competences — rayon state administrations.

The rayon is also the level of local self-government at which public functions are performed that cannot be performed at community level or that it would be ineffective to perform at that level.

Local executive bodies with general competences — oblast state administrations — and local self-government bodies of regional level operate at the oblast level.

A representative and executive body as well as the Representative Office of the President of Ukraine in the Autonomous Republic of Crimea operate in the Autonomous Republic of Crimea. The powers of these bodies are defined by law.

Specific features of the operations of local self-government and local executive bodies in the city-regions of Kyiv and Sevastopol and in the rayons within those cities are defined by special laws.

3.9. Organisation of governance at the populated area and city rayon level

Each individual populated area with a population of more than 50 residents is a basis for forming a territorial unit (hereinafter— TU) within a community.

A populated area with a population of fewer than 50 residents is a part of a TU.

TU territory comprises the territory of one or more populated areas and adjacent land. A TU's boundaries converge with the boundaries of neighbouring TUs and are established by decision of the community's council.

In TUs that are not formed on the basis of a populated area that is the centre of the community, certain managerial and representative functions of the community are performed by a TU official — the starosta (elder) or head of the populated area (village).

The competences of a starosta are defined by law.

Depending on the size of the populated area, additional competences to those exercised in accordance with that populated area's level may be granted to the council starosta by decision of the residents.

A populated area's starosta is elected by the residents of the settlements that comprise the TU. A starosta is not elected in the populated area that is the centre of the community, where the starosta's functions are performed by the head of the community.

The community council executive body enters into a contract with the starosta on the provision of relevant services. The level of remuneration is established according to the number of residents and size of the territory covered by the TU.

At the level of a TU that is not formed around the central populated area of the community, a representative self-organised public body may be created as an advisory body to the starosta.

At the community level, the representation of starostas is ensured by the establishment of starosta councils under the head of the community. The competences of these councils are defined by law.

In cities with over 300,000 residents, city rayons with at least 100,000 residents in each may be created with their own self-organised public bodies and divisions of the community council executive body.

4. Legislative support

Legislative support for administrative and territorial structure reform implies the adoption of the Law "On the administrative and territorial structure of Ukraine" and the introduction of amendments to the following laws:

- "On local self-government in Ukraine"
- "On local state administrations"
- "On elections of members of the Verkhovna Rada of the Autonomous Republic of Crimea and local councils and of village, town and city mayors"

- “On self-organised public bodies”

And to:

- The Budget Code of Ukraine
- The Land Code of Ukraine

Implementation of the reform also requires the elaboration of sectoral standards and criteria for evaluating relevant public services and the introduction of changes to other laws and regulations affecting each sector in connection with the changes in the administrative and territorial structure.

Implementation of administrative and territorial structure reform should be synchronised with the reform of local government and local executive bodies.

The formation of local self-government executive bodies at the level of rayons, oblasts and cities with special status (Kyiv and Sevastopol) requires the introduction of corresponding changes to the Constitution of Ukraine.

5. Phases of the reform of the administrative and territorial structure

The introduction of rapid, systematic and balanced reform of the administrative and territorial structure entails its phased implementation:

Phase One — Preparatory (approximate time frame: 2008–2009) :

- Developing and approving the Concept;
- Assessing the cost of the personnel changes needed for reform;
- Drawing up the draft laws and regulatory acts needed for reform;
- Establishing a government body responsible for reform implementation;
- Creating territorial divisions responsible for reform implementation;
- Modeling the results of the formation of ATUs in all regions;
- Training the staff of local self-government bodies and local executive bodies.

Phase Two — Formation of the social and political base for reform (approximate time frame: 2008–2010):

- Awareness-raising and educational campaign;
- Signing of a political agreement between major parliamentary factions, president and government on reform implementation;
- Establishing a system of financial and other incentives to form communities on voluntary basis in accordance with the conditions set out in the Concept;
- Formation of communities on a voluntary basis in accordance with the conditions set out in the Concept and in compliance with the legislation in force;
- Developing social standards of criteria for evaluating the administrative services provided by local self-government bodies;

Phase Three — Formation of communities, adjustments to the rayon division (approximate time frame: 2010):

- Completing the formation of communities in accordance with the legislation in force;
- Conducting elections to the councils of the newly formed communities in 2010, with the councils having competences pertaining to local self-government bodies according to the law;
- Switching the newly formed communities over to direct inter-budgetary relations with the state budget of Ukraine;
- Forming new rayons in accordance with established criteria;
- Reorganising rayon state administrations.

Phase Four — Expansion of rayon and regional local self-government powers (2011–2014):

- Approval of amendments to the Constitution of Ukraine;
- Election of rayon councils and creation of their executive bodies;
- Adjusting oblast boundaries if necessary;
- Reorganisation of oblast state administrations;
- Election of oblast councils and creation of their executive bodies.

On the whole, present-day oblasts satisfy the requirements for organisation of the administrative and territorial structure and the creation of regional level ATUs. Therefore, fundamental changes at this level are not needed.

6. Anticipated results of Concept implementation

Implementation of the Concept will make it possible to:

- Rationalise administrative-territorial units, standardising and systematising them and making them comparable;
- Raise the efficiency of budget spending, increase local budget revenues;
- Improve the quality of public services and their availability in terms of time and place;
- Halt the decline of the network of rural communities; reduce differences in the rural and urban socio-cultural infrastructures;
- Resolve a range of infrastructure problems, such as public transport, waste disposal, water supply, road maintenance and renovation;
- Lay the spatial foundations for regional development, improve the spatial planning of territorial development;
- Improve the climate for attracting investment;
- Improve the management of land resources, decrease the vulnerability to corruption of land-related transactions;
- Improve the system of territorial management.

Administrative and territorial structure reform in Ukraine opens up new possibilities for a number of other reforms. It hastens development of

a land inventory, general plans and land use plans. Favorable conditions for tax reform, judicial reform and the introduction of insurance-based medical care are created.

7. Financial, logistical and human resources and sources of funding.

Implementation of the Concept requires the creation of a separate temporary system of organisational support for the reforms, both at the central and territorial levels, and, first of all, at the level of oblast state administrations.

- The transfer of a range of powers from rayon to community level will be accompanied by respective changes in the governing bodies. Phase three envisages a gradual reduction in the number of rayon state administrations. In addition, a substantial number of village council personnel are expected to be released as a result of council reforms. The vast majority of those affected will be reemployed in community governing bodies, primarily in communities set up on the basis of cities of rayon order and towns.

The bulk of investment in community infrastructure will be allocated for the purchase or renovation of premises in communities that are set up in villages as centres of social development. Taking into account the fact that the majority of these will be created on the basis of former rayon centres that lost their status as a result of administrative and territorial reforms in the 1950s and 1960s, it is expected that no more than 200 new community centres will be created.

The reform implementation phase must be accompanied by a wide-reaching educational and awareness-raising campaign.

The implementation of the reforms will be paid for out of state and local budgets, as well as by other sources not prohibited by law. The state budget will provide funding mainly for capital expenditure.

The exact amounts of resources needed for reform implementation can be determined in the course of developing specific implementation measures.

LAW OF UKRAINE

On the Administrative and Territorial Structure of Ukraine

This Law defines the concept and principles of the administrative and territorial structure of Ukraine, the levels of administrative-territorial units, other territorial formations, the procedures for resolving issues of the administrative and territorial structure by state public administrations and local self-government bodies.

Chapter I. GENERAL PROVISIONS

Article 1. Concept and system of the administrative and territorial structure of Ukraine

1. The administrative and territorial structure of Ukraine is the internal territorial organisation of the state, determined by geographical, historical, economic, social, cultural and other factors, with its territories divided into component parts — administrative-territorial units, with the aim of providing an appropriate level of public services to the population, an efficient system for controlling social and economic processes, and the balanced development of all areas of the country.

2. The system of the administrative and territorial structure of Ukraine consists of the Autonomous Republic of Crimea, oblasts, rayons, cities, city rayons, towns, and villages, which are the basis for forming administrative-territorial units (hereinafter — ATUs) and territorial units, formed on the basis of and according to the procedure established by the Law.

3. Populated area — a compact inhabited area of people's permanent residence, which has a stably composed population, its own name and defined boundaries, and is duly registered in the manner prescribed by this Law. According to their population size, social-economic and urban characteristics, populated areas fall under the following categories:

1) Village — a populated area with predominantly individual housing, and whose formation and development are related primarily to agricultural activity.

2) Town — a populated area with predominantly individual housing, and whose formation and development are related to the location of eco-

conomic entities of a predominantly non-agricultural nature on its territory, with elements of social communal infrastructure in place, and the number of permanent residents exceeding 1 000 persons.

3) City — a populated area with compact, predominantly multi-storey housing, with economic entities located on its territory, a well-developed social, communal and transportation infrastructure, and a population of not less than 10 000 residents.

A populated area which meets the aforementioned requirements with a smaller population may have city status if such a status has been acquired in the course of history.

4. Temporary settlement — an area of compact temporary residence (for work, service, recreation, incarceration) of citizens who are registered at different domiciles, which may or may not have its own name.

5. The boundaries of populated areas and temporary settlements are determined by the boundaries of their developed areas on the basis of urban development documents drafted in accordance with the Law.

Article 2. Principles of the administrative and territorial structure of Ukraine

The administrative and territorial structure shall be based on the following principles:

1) A coordinated system of ATUs, created with the goal of exercising local self-governance, with the territorial structure of local executive bodies and other bodies of state power;

2) The ubiquity of the jurisdiction of state executive and local self-government bodies on the territories of the corresponding ATUs, with the exception of specific territories with special status, where specialised administrations are set up under specific laws;

3) Convergence of ATU boundaries with the boundaries of neighbouring ATUs of the same level;

4) The requirement that ATU territory be located solely within the boundaries of a single ATU of a higher level;

5) The principle of subsidiarity shall be applied in defining the distribution of competences between the levels of public administration;

6) A level of ATU shall be established only when there are competences which cannot be discharged or cannot be effectively discharged at other levels, primarily lower levels;

7) The homogeneity of administrative-territorial units in terms of their size and distance from the centres of the social development shall be ensured;

8) Compliance with EU recommendations concerning NUTS (Nomenclature of Territorial Units for Statistics).

Article 4. Administrative-territorial units

1. The administrative-territorial unit is an integral part of Ukrainian territory, the territorial basis for the organisation and operation of organs of state power and local self-government bodies.

2. Three levels of administrative-territorial units shall be established in Ukraine: communities, rayons and regions, which shall be formed in accordance with the provisions of this Law.

3. Cities with special status Kyiv and Sevastopol, and also Kyiv city rayons, shall be special ATUs.

4. An ATU shall be formed on the basis of a law, which defines its name, composition, administrative centre and boundaries.

5. Uniform requirements of the powers defined by law, as well as direct communications with organs of state power, shall be applied to all the local self-government and executive bodies created in ATUs of each level. Special laws shall determine the scope of competences of local executive bodies for Kyiv and Sevastopol.

6. Direct inter-budgetary relations shall link the State Budget of Ukraine with local budgets.

Article 5. Criteria for setting up an administrative-territorial unit

An ATU must have these principal characteristics:

1) The capacity in terms of personnel, infrastructure and finance of local self-government bodies and local executive bodies to exercise in full scope the competences defined by the law on ATUs of the corresponding level;

2) Stability in the face of demographic and economic challenges and positive prospects for social and economic development;

3) The absence within an ATU of any other ATU of the same or a lower level which falls under the jurisdiction of another ATU of the same level;

4) The existence of a populated area performing the function of the administrative centre of the ATU;

5) A low rate of state subsidy of the local budget;

6) Numbers of public service consumers on the territory of an ATU shall generally correspond to standard workloads for budget-funded institutions, as defined by the law for the specific level of ATU.

Chapter II. ADMINISTRATIVE-TERRITORIAL UNITS AND TERRITORIAL UNITS

Article 6. Community

1. A community is an ATU of the basic level, composed of a single or several populated areas, with boundaries determined by law and coincid-

ing with the boundaries of other communities, and the territorial basis for the activities of local self-government bodies in providing the public services determined by law for residents.

2. In accordance with the category of the administrative centre, communities shall be divided into the following categories: city, town and rural.

3. A community shall normally be formed by means of the union of populated areas around a city or populated area with principal employment-creating entities, necessary elements of social, budgetary and physical infrastructure, and which is accessible to the public, taking into consideration historically formed economic and social relations. A community shall normally be comprised of the populated areas located within accessible distance of the administrative centre as compared to the centres of other communities. If more than one centre is equally accessible, a populated area shall be incorporated into the community with the centre that has a higher level of economic and social development.

4. The distance between the populated areas and administrative centre of the community shall normally meet the requirements formulated by the Cabinet of Ministers of Ukraine for the accessibility of services at this level.

5. In cases where the formation of a community under paragraph 3 is not feasible, the community shall be formed in accordance with the requirements for the accessibility of the public services defined in paragraph 4 of this Article, around the populated area closest to the geographical centre of the newly formed community. This populated area must have the infrastructure necessary for the functioning of the administrative bodies of the community.

6. The minimum size of the population of rural communities shall be determined by the Cabinet of Ministers of Ukraine in accordance with sectoral standards for minimum workloads for budget-funded institutions responsible for public services. A smaller community population shall be permitted if the community is located in an area that is difficult to access. In this case, the equalising subsidy from the state budget to the budget of the said community shall be calculated on the basis of norms applicable for minimum size communities.

7. The size of the area occupied by a rural community cannot be smaller than one half of the average indicator for rural communities in Ukraine, with the exclusion of inaccessible or border areas, where these areas cannot be smaller than one third of the average indicator for rural communities in Ukraine.

8. The total revenues per capita in the total budget fund without transfers cannot be lower than the average indicator for rural communities of corresponding size.

9. The jurisdiction of local self-government bodies applies to all land within the boundaries of the community, regardless of ownership or use of that land. The law may restrict the jurisdiction of local self-government bodies depending on the type of land use.

10. The populated area that is defined as the community administrative centre shall be the place where the community council and its executive body are located.

11. In instances stipulated by law, isolated divisions or individual public servants of the territorial entities of central executive bodies operate on the territory of the community.

Article 7. Rayon

1. A rayon is an ATU that is composed of communities, and which constitutes a component part of a region. Local self-government bodies and executive bodies in charge of public services defined by law, the provision of which directly in the communities is not possible or is not effective, shall operate at rayon level.

2. The population of a rayon shall be not less than 150 000 residents. In territories with a low population density, a rayon may have a smaller population provided that the area occupied by this rayon exceeds the average indicators for area size in Ukraine by 1.5 times.

3. The rayon administrative centre shall be established taking into consideration historical traditions, geographical location, and the available infrastructure that allows for the establishment of the institutions and offices necessary for the operation of territorial divisions of central executive bodies and local self-government bodies at rayon level.

Article 8. Region

1. A region is an ATU whose goal is to implement state policy in the overall development of the territory and provide narrowly specialised public services, as defined by law, which cannot be provided at the rayon or community level.

2. The following ATUs are classified as regions: the Autonomous Republic of Crimea, oblasts: Vinnytsia, Volyn, Dnipropetrovsk, Donetsk, Zhytomyr, Zakarpattia, Zaporizhia, Ivano-Frankivsk, Kyiv, Kirovohrad, Luhansk, Lviv, Mykolaiv, Odesa, Poltava, Rivne, Sumy, Ternopil, Kharkiv, Khmelnytskyi, Kherson, Cherkasy, Chernivtsi, Chernihiv.

3. The regional administrative centre shall be established taking into consideration the available infrastructure that allows for the establishment of the institutions and offices necessary for the operation of territorial divisions of central executive bodies and local self-govern-

ment bodies at region level, as well as the accessibility of the region administrative centre for the residents of rayons within the structure of the region.

4. The specific nature of the Autonomous Republic of Crimea as a region is addressed by a special law.

Article 9. Administrative and territorial structure of cities with special status Kyiv and Sevastopol

1. The competences of community, rayon and region shall be exercised on the territory of the city with special status Kyiv. Administrative-territorial units — the city of Kyiv and its rayons — shall be formed to that end.

2. The competences of local self-government bodies and executive bodies for the city of Kyiv and its rayons shall be defined in law.

3. The competences of community, rayon and region shall be exercised within the territory of the city with special status Sevastopol. Administrative-territorial units — the city of Sevastopol and its communities — shall be set up to that end.

4. The competences of local self-government bodies and executive bodies for the city of Sevastopol and its communities are defined in law.

5. Changes to the administrative and territorial structure of the cities with special status Kyiv and Sevastopol can be introduced through the procedures defined by law.

Article 10. Territorial unit within a community

1. A territorial unit is a part of the territory of a community, intended to provide the specific public services determined by law in maximum proximity to citizens' places of residence.

2. A territorial unit comprises a populated area with adjacent lands and a population of not fewer than 50 permanent residents.

3. Populated areas with a population not exceeding 50 permanent residents and temporary settlements are included in a territorial unit formed on the basis of the closest populated area if the distance to the latter does not exceed 5 km.

Several populated areas with populations not exceeding 50 permanent residents can form a territorial unit on condition that the total number of residents exceeds 50 and distances between adjacent populated areas do not exceed 5 km.

If the distance from populated area to populated area exceeds 5 km, a territorial unit is set up on the basis of the former, on condition that the total number of its residents exceeds 10.

4. Territorial unit boundaries correspond to the boundaries of the neighbouring territorial units.

5. The decision on establishing the boundaries of a territorial unit within a community is made by the community council with due consideration of the requirement of indissolubility of the territory and its historical and natural characteristics.

Article 11. City rayon

1. City rayons may be set up by decision of the respective community councils in cities with a population of more than 300 000, with the exception of Kyiv.

2. The number of residents in each rayon shall be not less than 150 000.

3. The competences of isolated divisions of the executive bodies of local self-government bodies and self-organised public bodies are defined by decision of the community councils.

Article 12. Establishing boundaries of administrative-territorial units

1. After the structure of a community is defined, community boundaries shall be established:

1) along the state border of Ukraine;

2) on dry land — following characteristic points and natural relief;

3) on rivers and streams — along the mid-point of the main channel of navigable rivers, along the mid-point of non-navigable rivers or along the mid-point of their main distributary, along the mid-point of streams;

4) on lakes and other natural bodies of water — following a straight line that joins the boundaries of administrative-territorial units with the shore of the lake or other body of water;

5) on artificial reservoirs — following the boundaries that crossed the area before their creation, or in cases where the boundaries of the administrative-territorial units are established or changed after the creation of artificial reservoirs — following a straight line that joins the boundaries of administrative-territorial units with the shore of the of the artificial reservoirs;

6) on railway and road bridges, dams and other structures traversing rivers and streams — in such a way that the bridge, dam or other structure shall be located wholly within the boundaries of a single administrative-territorial unit;

7) on roads — in such a way that the road bed shall be located wholly within the boundaries of a single administrative-territorial unit; the boundaries of an administrative-territorial unit shall not normally be crossed by the same highway more than twice.

Boundaries established on a river, stream, lake or other body of water shall not be subject to change because of changes in their banks or shoreline, water level, or the course of a river or stream.

Land use boundaries shall be taken into consideration in establishing community boundaries if they do not contradict the provisions of this Article on the establishment of boundaries.

2. Rayon boundaries are established along the boundaries of the communities that constitute the rayon with the communities that constitute neighbouring rayons.

3. Regional boundaries are established along the boundaries of the rayons that constitute the region with the communities that constitute neighbouring regions.

4. The establishment of the boundaries of administrative-territorial units shall be entered in cadastral plans and marked in the areas by the body of central executive power responsible for land resources or its regional offices according to the procedure established by the Cabinet of Ministers of Ukraine.

5. The boundaries of an administrative-territorial unit shall be considered established only after the enactment of a corresponding law;

6. These boundaries shall be marked in the natural environment and entered in cadastral plans in case of need according to the procedure established by the Cabinet of Ministers of Ukraine;

CHAPTER III. INTRODUCING CHANGES INTO THE ADMINISTRATIVE AND TERRITORIAL STRUCTURE OF UKRAINE

Article 13. Procedure for the formation and reorganisation of communities

1. Decisions on the formation and reorganisation of communities shall be made by the Verkhovna Rada of Ukraine and enacted as laws.

2. The law on the formation and reorganisation of a community shall define its name, administrative centre, the list of populated areas that constitute the community and its boundaries on a topographical map of the area with a scale of 1:50000 with inserts at a smaller scale of those parts of the territory where boundaries traverse developed areas.

3. The subject of legislative initiative shall attach the following to the draft law on the formation or reorganisation of communities:

- 1) The community council resolution (where a community is to be reorganised);
- 2) Financial and economic substantiation;
- 3) Information concerning:
 - a) the current and proposed area and territorial boundaries of the communities in question;

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- b) the current and proposed structure, population size and other demographic factors of the communities in question;
 - c) the current and proposed distribution between communities of budget-funded institutions and organisations that provide public and administrative services in compliance with their legally defined competences, and communal enterprises;
 - d) the volume of budget revenues and expenditure of the communities in question for the year when the application was submitted, which are approved and expected as a result of the formation or reorganisation of the communities;
 - e) the current and proposed structure and staff of local self-government bodies and territorial offices of bodies of executive power ;
- 4) A resolution of the Cabinet of Ministers of Ukraine on the draft law with substantiation of the advisability of the decisions made;
4. If the draft law stipulates changes in community boundaries, it shall be considered together with the draft law on the neighbouring communities whose boundaries are subject to change.

5. The formation or reorganisation of communities shall not be implemented if the communities thereby formed or reorganised do not meet the requirements for communities as defined by this Law.

6. The transference of the community centre to another populated area in the same community without changing its boundaries is performed in accordance with the procedure determined by paragraphs 1, 2 and 3 of this Article. Additionally, where a proposal on the transference of the community centre is submitted, the following information shall be added to the draft law:

- a) the population size and other demographic factors of the communities in question;
- b) the availability of premises, structures and buildings needed for the operation of local self-government bodies in the populated area to which the administrative centre is to be moved;
- c) the accessibility of the populated area to which the administrative centre is to be transferred for the residents of other populated areas and populated areas within the boundaries of the respective community.

Article 14. Procedure for the formation and reorganisation of rayons

1. Decisions on the formation and reorganisation of rayons shall be made by the Verkhovna Rada of Ukraine and enacted as laws.

2. The law on the formation and reorganisation of a rayon shall define its name, administrative centre, and the list of populated areas and village and city communities that constitute the rayon.

3. The subject of legislative initiative shall attach the following to the draft law on the formation, reorganisation or abolition of a rayon:

- 1) Financial and economic substantiation;
- 2) A topographical map of the area with a scale of 1:100000 indicating the new boundaries or new administrative centre of the rayon;
- 3) Information concerning:
 - a) the current and proposed area and territorial boundaries of the rayons in question;
 - b) the current and proposed structure, population size and other demographic factors for the rayons in question;
 - c) the volume of budget revenues and expenditure of the communities in question for the year when the application was submitted, which are approved and expected as a result of the formation or reorganisation of the communities;
 - d) the current and proposed structure and staff of local self-government bodies and territorial offices of bodies of executive power.
- 4) A resolution of the Cabinet of Ministers of Ukraine on the draft law with substantiation of the advisability of the decisions made.

4. If the draft law stipulates changes in community boundaries, it shall be considered together with the draft law on the reorganisation of the respective administrative-territorial units.

5. The formation or reorganisation of rayons shall not be implemented if the newly created rayons and/or any of the neighbouring rayons do not meet the requirements for communities as defined by this Law.

6. The transference of the rayon centre to another area of the same rayon without changing its boundaries is performed in accordance with the procedure determined by paragraphs 1, 2 and 3 of this Article. Additionally, where a proposal on the transference of the rayon centre is submitted, the following information shall be attached to the draft law:

- a) the population size and other demographic factors of the cities in question;
- b) the availability of premises, structures and buildings needed for the operation of local self-government bodies in the city to which administrative centre is to be moved.

Article 15. Procedure for the reorganisation of regions.

1. Decisions on the formation and reorganisation of regions shall be made by the Verkhovna Rada of Ukraine and enacted as laws.

2. The law on the reorganisation of a region shall define the list of village, town and city communities that constitute the region and its administrative centre,

3. The subject of legislative initiative shall attach the following to the draft law on the reorganisation of a region:

- 1) Financial and economic substantiation;
- 2) A topographical map of the area with a scale 1:50000 indicating the new boundaries or new administrative centre;
- 3) Information concerning:
 - a) the areas of regions within the current and new boundaries and their new boundaries;
 - b) the population size and other demographic factors within the current boundaries of the regions in questions and within the new boundaries;
 - c) the availability of budget-funded institutions and organisations that provide public and administrative services in compliance with the competences legally defined for ATUs of regional level;
 - d) the volume of budget revenues and expenditure of the communities in question for the year when the application was submitted, which are approved and expected as a result of the formation or reorganisation of the; the current and proposed structure and staff of local self-government bodies and territorial offices of bodies of executive power.

4) A resolution of the Cabinet of Ministers of Ukraine on the draft law with substantiation of the advisability of the decisions made;

4. If the draft law stipulates changes in the boundaries of communities and the structure of the rayons that constitute the regions, it shall be considered together with the draft law on the reorganisation of the respective administrative-territorial units.

5. The transference of the regional centre to another area of the same rayon without changing its boundaries is performed in accordance with the procedure determined by paragraphs 1, 2 and 3 of this Article. Additionally, where a proposal on the transference of the regional centre is submitted, the following information shall be attached to the draft law:

- a) the population size and other demographic factors of the cities in question;
- b) the availability of premises, structures and buildings needed for the operation of local self-government bodies in the city to which administrative centre is to be moved .
- c) the accessibility of the city to which the administrative centre is to be moved for the residents of rayons within the boundaries of the respective region.

Article 16. Procedure for the formation and liquidation of populated areas, their assignment to the categories of village and town, the establishment of and changes to their boundaries

1. A decision on the formation of a new populated area shall be made if for the term of one year not less than 50 people are living permanently in the populated area and if the boundaries of the populated area are located more than 500 metres from any neighbouring populated area or are separated by a natural barrier.

2. The decision to liquidate a populated area shall be made in cases of the departure or death of its last resident or its merger with another area.

3. The decision to form or liquidate a populated area, assign it to the category of village or town, establish or change its boundaries shall be made by the council of the community within which the respective area is located.

4. The decision on the formation of populated area and its assignment to the category of village or town shall define its name and boundaries.

5. The decision on the formation or liquidation of a populated area due to its merger with another populated area, its assignment to the category of a village, or the establishment of or changes to its boundaries shall be made taking into consideration the decision of a general meeting of the residents of the respective area, and, in cases where the procedure involves changes to the boundaries of neighbouring populated areas, — in compliance with the decisions of general meetings of the residents of those populated areas.

6. The decision on assignment of a populated area to the category of a town or its removal from that category shall be made taking into consideration the results of consultations with its residents.

7. The draft decision shall be accompanied by:

- 1) Substantiation of the advisability of the decision made;
- 2) The decision of the of general meeting of the residents in accordance with paragraph 5 of this Article or the results of consultations in accordance with paragraph 6 of this Article;
- 3) Information on the volume of expenditure associated with the matters addressed in paragraph 1 and sources of its defrayal;
- 4) The cadastral plan and topographical map of the area with the location of the area, and if the boundaries of a populated area or village are to be changed — with the current and new boundaries;
- 5) Information concerning:

- a) the area and population size within the boundaries of the populated area, principal demographic indicators and, in cases where the draft decision concerns changes to the boundaries between populated areas — the area and population size within the new

boundaries of these populated areas and the populated areas whose boundaries are to be changed;

- b) the availability in the area of educational and health care institutions, enterprises providing communal and everyday services, social and cultural facilities, organizations and individuals undertaking economic activity, commerce and public catering, and housing; also, for villages and towns, information concerning the existence of businesses within their boundaries and, in cases where the draft decision concerns changes to the boundaries between populated areas, information concerning respective indicators within the new boundaries of the area and neighbouring areas whose boundaries shall undergo changes in the process.

8. The decision on the formation or liquidation of populated areas, their assignment to the categories of village and town, the establishment of and changes to their boundaries shall come into force after this information is duly registered in the State Register of administrative-territorial units, territorial units, and populated areas.

Article 17. Procedure for assignment of populated areas to the category of city, establishment of and changes to the boundaries of cities

1. The decision on the assignment of populated areas to the category of city, removal from the category, establishment of and changes to the boundaries of cities is enacted by the Verkhovna Rada of Ukraine as a law.

2. The law on the assignment of a populated area to the category of city, removal from the category, and establishment of and changes to the boundaries of a city shall define its new status and boundaries.

3. The decision on the assignment of a populated area to the category of a city or its removal from the category is made taking into consideration the results of consultations with the residents of the area.

4. The subject of the legislative initiative shall submit to the Verkhovna Rada of Ukraine the draft law on the issues addressed in paragraph 1 of this Article on the proposal of the respective community council. The subject of legislative initiative shall attach the following to the draft law on the issues addressed in paragraph 1 of this Article:

- 1) The decision of the Cabinet of Ministers on the draft Law;
- 2) The application of the respective community council;
- 3) Substantiation of the advisability of the decision made;
- 4) Documentary information on the results of consultations with the residents of the area.

5) Information on the volume of expenditure associated with resolving the matters addressed in paragraph 1 of this Article and the sources of its defrayal;

6) The cadastral plan and topographical map of the area with the location of the area, and if the boundaries of the area are to be changed – with the current and new boundaries;

7) Information concerning:

a) the area and population size within the boundaries of the populated area, principal demographic indicators, historical reasons for granting city status to the area and, in cases where the draft decision concerns changes to the boundaries of a city – the area and population size within the new boundaries;

b) the availability of educational and health care institutions, enterprises providing communal and everyday services, social and cultural facilities, organizations and individuals undertaking economic activity, commerce and public catering, and housing; also, for villages and towns, information concerning the existence of businesses within their boundaries and, in cases where the draft decision concerns changes to the boundaries between populated areas, information concerning respective indicators within the new boundaries;

c) the total budget revenues and expenditure in the community, within the boundaries of which the populated area is located, for the year when the respective application is submitted.

Article 18. Procedure for naming and renaming administrative-territorial units, territorial units, populated areas

1. Each administrative-territorial unit, territorial unit, and populated area has its own name.

2. The procedure for naming or re-naming a territorial or administrative-territorial unit shall not allow:

a) a territorial unit to be granted the name of another territorial unit which already exists within the boundaries of the respective community;

b) a community to be granted the name of another community which already exists within the boundaries of the respective region;

c) a rayon to be granted the name of another rayon which already exists in Ukraine.

3. Granting an area a name deriving from the name of a real person is permissible only for newly formed populated areas if no less than 50 years have passed since the death of the person in question. In addition, the aforementioned person shall have made a significant contri-

bution to Ukraine's statehood or the enrichment of its cultural and scientific heritage.

4. The name of a territorial unit, community or rayon shall correspond, as a rule, to the name of the populated area which forms its administrative centre.

If the populated area that is administrative centre of a community bears the same name as the administrative centre of another community within the boundaries of the same region, or a rayon centre bears the same name as the centre of another rayon in Ukraine, or if its name does not meet the requirements set out in paragraph 3 of this Article, one of these communities or rayons shall be granted a different name taking into consideration their historical, cultural, geographical, ethnic or other local conditions and specific features according to this Law.

5. The decision on the naming or renaming of an ATU is enacted by the Verkhovna Rada of Ukraine as a law.

7. The draft law on the naming or renaming of an ATU or its administrative centre is submitted by the subject of legislative initiative with the following additions:

- 1) The decision of the Cabinet of Ministers on the draft law with substantiation of the advisability of the decision made;
- 2) The application from the council of the corresponding level;
- 3) Documentary information on the results of consultations with residents of the ATU on the issue in question;
- 4) The history of the administrative centre of the administrative-territorial unit, including all its known names;
- 5) Information on the volume of expenditure associated with resolving the matters addressed in paragraph 1 of this Article and the sources of its defrayal;

8. When submitting proposals on renaming populated areas with telegraph and postal offices or railway stations, local councils shall inform in advance the central executive body responsible for postal communication or the central executive body responsible for railway transport respectively.

Article 19. State Register of administrative-territorial units, territorial units, towns, and city rayons

1. Official data on administrative-territorial units, territorial units, and populated areas are entered in the State Register of administrative-territorial units, territorial units, and populated areas (hereinafter — the State Register).

2. The State Register is compiled and maintained by a specially authorised central executive body for regional development, which is its supervisor and administrator.

3. The State Register is maintained in paper and electronic forms.

4. The following data are entered into the State Register:

- 1) Lists of regions, rayons, communities, cities, towns, villages, city rayons, and territorial units;
- 2) The total area and boundaries of administrative-territorial units, territorial units, populated areas, and city rayons;
- 3) The population of administrative-territorial units, territorial units, populated areas, and city rayons as of January 1 of the current year;

5. Information shall be entered in the State Register or struck from the State Register based on the corresponding decision of the body whose competences under this Law include dealing with matters of the administrative and territorial structure as well as official data supplied by the central executive body for statistics.

6. Bodies whose competences under this Law include dealing with matters of the administrative and territorial structure shall provide a copy of the decision to a specially authorised central executive body for regional development to enter the information contained in it into the State Register no later than 5 working days after the decision comes into force.

7. The information contained in the State Register shall be open. Access to the State Register data shall be provided through the Internet free of charge.

8. The term for providing excerpts from the State Register upon written request shall not exceed 5 working days from the date of submission of the request.

9. A fee in the amount established by the Cabinet of Ministers of Ukraine, shall be collected for providing excerpts from the State Register.

State authorities and local self-government bodies shall be exempt from the fee for providing excerpts from the State Register at their request if the request is submitted in relation to the performance of their duties under the law.

10. The procedure for maintenance of the State Register shall be established by the Cabinet of Ministers of Ukraine.

Article 20. Financial support for addressing matters of the administrative and territorial structure

1. The respective local budget funds received from the State Budget of Ukraine as target subventions shall be used to finance measures related to:

- 1) The formation, reorganisation and liquidation of administrative-territorial units and populated areas;
- 2) The categorisation of populated areas as villages, villages as towns, populated areas as cities;

3) The establishment and changing of the boundaries of administrative-territorial units and cities, including marking boundaries on the local terrain;

4) The naming and renaming of administrative-territorial units and populated areas that are ATU centres.

2. The State Budget of Ukraine defrays the costs of maintenance of the State Register, the issuance of State acts and the publishing of the official reference book “Ukraine. The Administrative and Territorial Structure”.

3. Expenditure related to the organisation of general meetings of residents at the place of their domicile and consultative surveys are defrayed by the organisers of the given undertaking.

4. Other expenditure on undertakings related to the matters of the administrative and territorial structure are defrayed by the respective local budgets.

FINAL AND TRANSITIONAL PROVISIONS

1. This Law shall enter into force on January 1, 20__.

2. The provisions of paragraph 8, article 6 of this Law shall enter into force five years after the formation of communities in accordance with paragraph 4 (a, i) of this Chapter.

3. The Resolution "On the procedure for addressing matters of the administrative and territorial structure of the Ukrainian SSR", approved by the Decree of the Presidium of the Verkhovna Rada of the Ukrainian SSR of March 12, 1981 (Bulletin of the Verkhovna Rada of the Ukrainian SSR, 1981, № 12, article 179) shall be repealed from the moment of the entry of this Law into force.

4. The Cabinet of Ministers of Ukraine shall:

a. Within three months of the adoption of this Law:

- i. Prepare a draft law on the listing, structure, boundaries and administrative centres of the newly formed communities and rayons and submit it for consideration by the Verkhovna Rada of Ukraine;
- ii. Prepare draft laws regulating the legal status and activities of local self-government bodies and local executive bodies in administrative-territorial units and submit it for consideration by the Verkhovna Rada of Ukraine;

b. Within nine months of the adoption of this Law:

- i. Bring its normative and legal acts into compliance with this Law;
- ii. Prepare a list of the legal acts which shall be considered invalid because of the entry into force of this Law, and changes to budgetary, tax, land and other legislation to be adopted arising from this Law and submit them for consideration by the Verkhovna Rada of Ukraine.

5. Local self-government bodies of territorial communities of villages, towns, cities and their officials, and rayon councils operating at the moment of the entry into force of this Law shall continue to perform their duties until communities of villages, towns and cities, as well as rayons, are set up under the provisions of this Law.

6. Rayon state administrations, other territorial bodies of bodies of central executive power operating in rayons at the moment of the entry into force of this Law shall continue to perform their duties until new local bodies of executive power in the newly formed rayons are formed under the provisions of this Law.

7. Rule that the isolation zone of Chernobyl Nuclear Power Plant is not included in the area of the communities.

8. The Cabinet of Ministers of Ukraine shall allocate the necessary funds (including subventions to local budgets) within the State Budget of

Ukraine for 2009–2011 for the support of administrative and territorial reform. The subventions amounts are distributed among regions in proportion to the size of their population and oblast area in equal measure.

9. If the necessity should arise, the categories of populated areas (villages, towns, cities) shall be changed in the course of implementation of the measures envisaged by item 1) p.3.

10. The Cabinet of Ministers of Ukraine shall, within one year of the entry into force of this Law, approve the procedure for maintaining the State Register of administrative-territorial units, territorial units, populated areas and city rayons and publishing the official reference book "Ukraine. Administrative and Territorial Structure".

NOTE

З історії реформ адміністративно-територіального устрою України 1907-2009 роки

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