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FEATURES OF SELF-GOVERNMENT FUNCTIONING IN UKRAINE

The article deals with the main issues of self-government functioning. The peculiarities of the material base formation of self-government bodies and their financial components have been determined. Most of the options are considered on an example of Kyiv city. It is noted that in other regions, the formation of a financial component may differ a bit from the one discussed. The peculiarities of executive power functioning in the creation of self-government bodies and territorial authorities have been determined. Exclusive communal property objects have been defined. Issues of subsidies to local self-government bodies from the state budget have been considered. The public-private partnership use in the conditions of the material base formation of local self-government bodies has been taken into consideration.

Key words: *self-government, local self-government, authorities, local authorities, public-private partnership.*

Problem formulation. The definition of territorial communities and local self-government bodies is a very important aspect in the current conditions of decentralization, as well as material and financial component formation as the main tools of local self-government activity.

Recent researches and publications analysis. Some aspects of the place and role study of local self-government bodies in the state mechanism were reflected in the scientific works of V.B. Averianov [1], V.I. Bordeniuk [2], L.A. Lutz [3], A.M. Onupriyenko [4], O.F. Skakun [5], and other scholars.

The purpose of this article is to determine the peculiarities of the material and financial component formation in the self-government bodies in Kyiv and the possibilities of using public-private partnership in order to improve life there.

The basis of local self-government is the material and financial component, namely movable and immovable property, local budgets revenues, extrabudgetary target funds (including currency ones) and others, land, natural resources that are in communal ownership of villages, towns, cities territorial communities, along with their joint property objects to be managed by the district and regional councils. The rights allocation decision of the property and financial resources management owned by the territorial communities is taken by the relevant local communities.

Territorial communities of villages, towns, cities, and cities' districts have the right of communal ownership. At the same time, the communal property is clearly understood as the territorial community right to own its property, to use it expediently, economically, and effectively, and

dispose of its own interests both directly and through local self-government bodies. The concept of communal ownership was introduced for the first time at the legislative level by the Law of Ukraine "On Property" as of February 7, 1991 [9] (expired in April 2007), and for the time being communal ownership (or in accordance with the Law – property of administrative-territorial units) was considered as a form of state property (Article 31 of the Law). The 1996 Constitution of Ukraine [6] defines communal property as an independent form of ownership, with such subjects as the territorial communities of the villages (several villages in the case of inhabitants' voluntary association to the rural community), towns, cities, and city districts.

The reason for the acquisition of communal property right is the property and property rights transfer to territorial communities free of charge by the state and other subjects of property rights, as well as the property creation and acquisition by local self-government bodies in accordance with the procedure established by the Law.

Thus, the property transfer from the state property to the communal one is regulated by the Law of Ukraine "On Transfer of Objects of the Right of State and Communal Property" [10]. That is, the Law regulates the relations connected with the right to transfer of state property in the communal property or joint ownership of territorial community of villages, towns, cities, and city districts, as well as it transfer communal ownership objects into state property ones.

The Law extends to the items of state and communal property, including those transferred for free usage to self-governing institutions and organizations or for rent.

Transfer of other ownership forms in the state or communally property may be regulated by the provisions of this Law unless otherwise provided by the Law or decisions of the relevant local councils. The transfer of objects from the state to communal property is carried out basically by the decision of the Cabinet of Ministers of Ukraine (immovable property (buildings, constructions, including premises and unfinished construction), other individually determined property of enterprises; shares (parts) belonging to the state or subjects of communal property rights in the property of business associations; objects of housing stock (including dormitories as objects of real estate, residential complexes and/or their parts), and other social infrastructure (educational and cultural institutions, (except cinemas), physical culture, sports and health-care objects (except sanatoriums, health and recreation resort houses and pharmacies), social security objects, children's health camps) that are economically managed by state enterprises, institutions, organizations). But the transfer of objects from the state to the communal property of the territorial communities of the villages, towns, cities, and city districts is carried out with the consent of the relevant village, town, city, and city district councils unless otherwise provided by the Law. Also, the transfer of objects to joint ownership of the territorial communities of the villages, towns, cities, and city districts is conducted according to the consent of local councils, unless otherwise provided by the Law.

The list of the communal property rights objects of a territorial community is determined by the respective village, town, city council.

For instance, the city of Kyiv: in accordance with Article 140 of the Constitution of Ukraine [6], second part of Article 7 and Article 11 of the Law of Ukraine "On the Capital of Ukraine – Hero City Kyiv" [11], Article 2 of the Law of Ukraine "On the Status of Deputies of Local Councils" Kyiv City Council decided not to form district councils in Kyiv (the decision as of 09.09.2010 № 7/4819 "On the Organization of District Administration in the city of Kyiv" [16] in order to improve the organization of district management in the city of Kyiv.

It has been approved the lists of enterprises, organizations, and institutions with the property been transferred to the district administrations in the city of Kyiv by the executive body resolution of the Kyiv City Council (Kyiv city state administration) dated December 10, 2010, № 1112 "On the Organization of District Management in the City of Kyiv" [15], in accordance with the execution of the decision based on the Law of Ukraine "On Local Self-Government in Ukraine" [12], the decision of the Kyiv City Council dated October 28, 2010, №183/4995 "On Certain Issues of Organization of District Management in Kyiv" [16] and within the framework of the function of the local self-government body, a resolution of the executive body of the Kyiv City Council (Kyiv city state administration) dated December 10, 2010, No. 1112 "On the Organization of District Management in the City of Kyiv" and enclosed by the local self-government body functions.

Property management is the process when one person (the property owner) transfers his property to another one (the trustee) for a certain period of time. The trustee is required to carry out the management of this property for a fee on his behalf. At the same time, such management can be set up in the property owner interests or his appointed person (beneficiary).

Any property may be leased only with the consent of the property owner, that is, on the basis of the respective territorial community decision, and on established (approved) terms.

It is precisely the presence of communal property in local governments that gives them the right to use public-private partnerships as a special type of cooperation. With the use of public-private partnership tools, the owner of the facility does not change but private business can act as a management company and receive certain preferences from local authorities. The benefits of partnership are the immutability of the owners but the possibility of objects reconstruction or restoration in order to improve the living standards of the population.

Therefore, when the territorial community property of the city of Kyiv is taking as an example:

Decision of the Kyiv City Council dated April 21, 2015, No. 415/1280 "On Approval of the Provision on the Lease of Property of a Territorial Community of the City of Kyiv" [15] approved the Provision on the lease of the territorial community property of Kyiv, the competition conducting procedure for the right to lease the territorial community property of the city of Kyiv, the calculating method of the rent for the territorial community property of Kyiv to be leased, as well as typical contract for the transfer of the Kyiv territorial community property for lease. The property (real estate, land, etc.) is leased and a lease agreement is concluded based on the decision of the executive body of the Kyiv City Council (Kyiv city state administration).

Movable and immovable property, other objects of the communal ownership right of public use, which are important for the life support of the village, settlement, city, as well as to meet the territorial community needs and to preserve historical and cultural objects, are defined by the territorial community as objects of the exclusive right of communal property.

In particular, objects of the exclusive right of communal property may include:

- general land use settlements (squares, streets, passages, roads, pastures, hayfields, quays, parks, urban forests, squares, boulevards, cemeteries, places of disposal and utilization of wastes); as well as land provided for the placement of houses of state authorities and local self-government bodies;
- nature protection, recreation, historical and cultural purposes land;
- rivers, reservoirs and their banks;
- cemeteries;
- historical and architectural monuments;
- natural landscapes and nature reserves;
- other objects list to be established by the territorial community or the relevant council.

The objects of exclusive communal property rights cannot be alienated in any way, and their list is established by the charter of a territorial community.

Territorial communities may have joint ownership (joint or partial). It contains objects satisfying the territorial communities' common needs, objects of communal property rights, as well as local budgets funds. The last ones are united on a contractual basis for the joint projects implementation or for co-financing (maintenance) of communal enterprises, institutions, and organizations and create appropriate bodies and services for this purpose by the decision of two or several territorial communities, relevant local authorities.

The executive bodies of local self-government create, reorganize, and liquidate communal enterprises, institutions, determine the goals of their activities and organizational forms; approve the statutes of the enterprises, organizations, and institutions created by them in accordance with the law. In accordance with the Law, they regulate prices and tariffs for the products and services of the established enterprises, the relationship between these enterprises, and the corresponding budget; establish the profits usage procedure, control the property use effectiveness owned by enterprises, conduct financial and economic activities, appoint and dismiss the heads of such enterprises, take reports on their activities; delegate their representatives to the supervisory boards of business associations, whose capital shares belong to local self-government bodies.

For example, in the city of Kyiv: annual financial plans of the enterprises are approved for the relevant year, as well as control over its implementation in accordance with clauses 6, 12 of the Regulation on the procedure for drawing up an annual financial plan by an enterprise, organization, institution belonging to the communal property of a territorial community of Kyiv and an economic society that contains a share of communal ownership property of the city territorial community in the amount of not less than 30%, approved by the order of the Kyiv city state administration dated November 01, 2001, No. 323 [12], and paragraph 3 of item 5.3 of the Regulation on the Department of communal property of Kyiv, the executive body of the Kyiv City Council (Kyiv city state administration), and to be approved by the order of the executive body of the Kyiv City Council (Kyiv city state administration) as of December 29, 2012, No. 233 [17].

Balance commissions are conducted for the analysis of the financial and economic activity of enterprises, institutions, and organizations, where the reports are held, the financial and economic activities' effectiveness is provided, and violations committed are pointed out according to the six months and year results. As well as proposals are offered for management of enterprises improving, the enterprises' executives are instructed to eliminate violations as a result of their economic activity, and instructions' execution by this commission (the balance commission composition is approved by the relevant administrative document order) is also controlled.

In addition, the relations of local self-government bodies with enterprises, institutions, and organizations, which are not in communal ownership of the respective territorial

communities, are based on a contractual and tax basis, as well as on the basis of control within the powers granted to local self-government bodies by law. Local self-government bodies may initiate inspections, as well as organize inspections at enterprises, institutions, and organizations that are not in communal ownership, on the implementation of the powers delegated to them by executive bodies.

It should be noted that the state financially supports local self-government, participates in the formation of local budget revenues, and controls the legal, expedient, economical, and efficient funds spending and their proper accounting. It guarantees local governments the income base sufficient to provide the population with services at the level of minimum social needs. If the revenues from the local taxes and duties collected from local budgets exceed the minimum local budget, the state withdraws from the local budget a part of the surplus in the state budget in accordance with the procedure established by the law on the state budget. Minimum amounts of local budgets are determined on the basis of budget security per capita, taking into account the economic, social, natural, and ecological state of the respective territories, based on the minimum social needs established by the Law.

State budget funds transferred in the form of grants, subventions, are distributed in the amount necessary for the formation of revenue parts but not lower than the minimum size of local budgets, defined by law, and also used to finance joint projects of territorial communities. The necessary funds for the local self-government bodies are provided in the Law of Ukraine "On the State Budget of Ukraine" each year [13].

The Cabinet of Ministers of Ukraine distributes subventions from the state budget to local budgets by separate orders for the implementation of appropriate measures, while approving the list of objects, volumes, and measures that are financed. At the same time, the procedure and conditions for subvention granting from the State Budget to Local Budgets were approved by the Resolution of the Cabinet of Ministers of Ukraine dated May 18, 2011, No. 520 [14]. And co-financing is required to grant subvention. For example, for the city budget of Kyiv not less than 5 percent of such a subvention amount.

Conclusions. The communal ownership right of a territorial community is protected by the Law on equal terms with the rights of other subjects in accordance with Article 13 of the Constitution of Ukraine [6]. Objects of communal property rights cannot be seized from territorial communities and transferred to other subjects of property rights without the consent of the territorial community directly or the corresponding decision of the council or the body authorized by this community, except in cases stipulated by the Law.

Village, town, city, district councils (if created) have the right to:

- make proposals on the communal property transfer or sale for the respective territorial communities of enterprises, institutions, and organizations, their structural subdivisions and other objects, belonging to state and other forms of ownership, if they are important communal, social, and cultural needs maintenance of territorial communities;

- purchase predominantly the premises, buildings, and other objects located in the relevant territory in communal ownership, if they can be used to provide the territorial communities communal, social, and cultural needs;

- have communal property outside the corresponding administrative-territorial units.

The base of local budget revenues is local taxes and fees that are regulated by the Tax Code of Ukraine. The Budget Code of Ukraine also controls the relations arising in the development process, review, approval, budgets execution, the implementation and monitoring compliance reports with budget laws, as well as issues of liability for violation of budget legislation, as well as the definition of legal principles for the state and local

debt formation and redemption. The local budget is executed on the card, which is approved by the head of the local financial institution. The head of a local financial institution ensures the compliance of the local budget drawing with the established budget assignment during the budget period.

In order to provide the local governments with monitoring and control over the implementation of all transactions with local budgets, the Treasury system of servicing local budgets is being implemented by the Treasury bodies in accordance with the Budget Code in Ukraine. Treasury services of local budgets are carried out by the State Treasury bodies in accordance with the decisions of councils in consonance with the corresponding local budgets.

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ОСОБЛИВОСТІ ФУНКЦІОНУВАННЯ МІСЦЕВОГО САМОВРЯДУВАННЯ В УКРАЇНІ

У статті розкрито основні питання функціонування органів місцевого самоврядування. В Україні нещодавно почався процес децентралізації який має на меті покращення рівня життя населення, надання більших повноважень місцевим органам самоврядування та територіальним громадам. Ідея запровадженої Урядом України децентралізації, яка визнана однією з найбільш успішних реформ, в тому, аби не тільки передати кошти, а й надати інструменти, що дозволять громадам заробити додатковий фінансовий ресурс для розвитку територій. Створення спроможних громад і, таким чином, створенню нових можливостей розвитку і регіонів, і країни в цілому. Щоб розпочати ефективний розвиток регіонів, втілювати нову сучасну регіональну політику, потрібно завершити перший етап децентралізації – створення спроможних громад та районів. Досить важливим є формування матеріальних ресурсів органів місцевого самоврядування, які мають бути передані від держаних власників чи інших. Визначено особливості формування матеріальної бази органів самоврядування та їх фінансових складових. Більшість варіантів розглянуто на прикладі міста Києва. Відзначено що в інших регіонах формування фінансової складової може децю відрізнятись від розглянутого. Визначено особливості функціонування виконавчої влади при створенні органів самоврядування. Визначено об'єкти виключно комунальної власності. Особливості використання комунального майна створюють як додаткові можливості так і певні обмеження. Розглянуто питання надання дотацій органам місцевого самоврядування з державного бюджету. Визначено яким чином відбувається надання дотацій та субвенцій, та їх відмінності. Розглянуто використання публічно-приватного партнерства за умов формування матеріальної бази місцевих органів самоврядування. Використання партнерських відносин допоможе місцевим органам самоврядування вирішити питання пов'язані з благоустроєм, медициною, освітою тощо. Найбільш актуальні питання поліпшення інфраструктури: дороги, енергосистеми, водопостачання вирішуються також за допомогою публічно-приватного партнерства.

Ключові слова: самоврядування, місцеве самоврядування, органи влади, органи місцевої влади, публічно-приватне партнерство.

ОСОБЕННОСТИ ФУНКЦИОНИРОВАНИЯ МЕСТНОГО САМОУПРАВЛЕНИЯ В УКРАИНЕ

В статье рассматриваются основные вопросы функционирования органов местной власти. Определено особенности формирования материальной базы органов самоуправления и их финансовых составляющих. Большинство вариантов рассмотрено на примере города Киева. Определено что в других регионах формирования финансовой составляющей может отличаться от рассмотренного. Определено особенности функционирования исполнительной власти при создании органов самоуправления, территориальных органов управления. Определено объекты исключительно коммунальной собственности. Рассмотрено вопросы предоставления дотаций органами местного самоуправления из государственного бюджета. Рассмотрено использование публично-частного партнерства при формировании материальной базы местных органов самоуправления.

Ключевые слова: самоуправление, местное самоуправление, органы власти, органы местной власти, публично-частное партнерство.