

# The Reform of Local Self-Government in Ukraine in the Context of the Polish Experience

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## Abstract

*The article highlights the process of reforming local self-government and territorial organization which took place in Ukraine in 2014–2020 and which led to a radical change in the model of public power at the local level. Accordingly, the purpose of the article is to provide a comprehensive analysis of the local self-government (decentralization) reform in Ukraine, outline the problematic aspects that need to be addressed for its successful completion, and discuss the impact of the Polish decentralization experience on the reform. The timeframe of the study covers 1970–2023. The author analyzes the socio-political preconditions for the reform, its positive results, and the main challenges faced by the decentralization process. The main objective of the reform was to form an original national model of local self-government with successfully functioning territorial communities. In general, this objective has been accomplished since, even in the context of the Russian-Ukrainian war, such communities show their efficiency and cohesion. An important factor in the success of the Ukrainian reform was the use of Poland's experience in decentralization. The study highlights the positive aspects of the Polish local government reform and the possibilities of their implementation in domestic practice. The study of the Polish experience has also shown that in the process of administrative and territorial reform, it is necessary to take into account specific national characteristics and socio-economic realities. The theoretical and methodological basis of the study was formed by the scientific methods of synthesis and analysis, which rely on comparison and observation. The comparison method, by referring to the Polish local government reform, made it possible to identify common and distinctive aspects of the phenomenon under study and, on this basis, to highlight those that should be adapted to the Ukrainian model of territorial organization. It also enabled us to focus on mistakes that should be avoided. In turn, thanks to the observation method, we were able to study the trends that characterized the evolution of local self-government in Ukraine, to critically assess its transformation at each historical stage, and to identify the political factors that negatively affected this transformation. In the process of writing the article, a critical analysis of the literature on the subject, including the works of Polish and Ukrainian scholars and government officials, as well as the legislative framework of local self-government, played an important role.*

**Keywords:** territorial organization of Ukraine, decentralization, local self-government, local community

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## Introduction

Local self-government in Ukraine and Poland went through a difficult path of formation and development, as a result of which the centralized power system inherent in socialist states was destroyed. However, it took the Poles less time to introduce a decentralized model of public administration, in which local and regional self-government plays an important role not only in addressing issues of local and regional importance but also in the development of civil society in general. Local self-government became one of the triggers of socio-economic development in Poland. In contrast, in Ukraine, this process started much later and was much more difficult. As a result, the search for an optimal model of public authority with effective local self-government is still underway. What are the reasons for this situation, given that in the late 1980s and early 1990s both countries were

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in an almost identical socio-economic situation? What can we learn from Poland's decentralization experience and what mistakes should we avoid ourselves? The present article will attempt to answer these questions.

It should be noted that the topic in question had been the focus of the author's attention long before the reform began. In fact, his first articles on the subject appeared in 2007 (Malynovs'kyy 2007), and, in 2010, the Polish experience of reforming local self-government and the organization of public authorities at the local and regional levels was thoroughly covered in his monograph (Malynovs'kyy 2010, 278–329).

## **1 The state of local self-government in Ukraine and the prerequisites for the reform**

At the time of the collapse of the socialist system, Ukrainian socio-economic conditions were similar to Polish ones. However, despite being the largest country in Europe and possessing powerful resources, as an independent country, Ukraine has failed to use this potential. Ukrainian local self-government, believed to be the basic institution of democracy, has still not become an effective system of public authority. Among the reasons behind this failure are corporatization of local self-government bodies (hereinafter referred to as LSGs) and their alienation from the population, non-transparent activities, inefficient use of communal property and land resources, corruption, and paternalism in relations with the citizens. The economic inability of the vast majority of territorial communities (hereinafter referred to as TCs) to exercise their own and delegated powers has led to significant disparities in the development and resource provision of TCs as well as huge differences in the socio-economic and cultural development of different regions and settlements. Due to their weak financial and infrastructural capacity and insufficient staffing, it is not possible to provide easily accessible quality public services to the population.

Furthermore, ordinary Ukrainians feel separated from the affairs of the state and do not associate their future with the common good. As a result, they are wary and distrustful of any initiatives of the state, including the reforms it has launched. In practice, the constitutional principle of people's power has not been implemented, and the lack of democratic skills, including direct participation in local issues, has led to the following consequences:

- The underdevelopment of political and legal mechanisms enabling members of TCs to influence the decisions and policies of local authorities that are vital for a particular community and reflect its close cooperation with the local self-government body. The vast majority of TCs do not have relevant statutes or regulations that would allow them to exercise their rights as granted by law.
- The political and social disintegration of TCs and the residents' inability to act in solidarity to protect their rights and defend their interests in cooperation with local authorities so as to achieve common development goals.

All of these structural deformations need to be addressed immediately. Modern European experience has shown that there can be no successful state without an effective and capable municipal government that successfully implements the basic principles of democracy. This is also proved by the experience of Ukraine's closest neighbor, the former socialist country of Poland, which has successfully implemented administrative and territorial reforms and strengthened local self-government, reaching a balanced and high level of socio-economic and cultural development of its TCs and establishing a civil society.

In our opinion, one of the reasons for Poland's success lies in its experience of statehood. Although Poland had been a socialist country, unlike Ukraine, it had had the status of an independent state. Having state-building experience, with the collapse of the socialist system, the political elite immediately began to move towards democracy, taking the Euro-Atlantic direction in its development. Since it was impossible to implement this scenario without developed local self-government, Polish politicians were eager to consistently implement real reforms. In contrast, Ukraine had been part of the Soviet Union for more than seven decades and all important decisions concerning the Ukrainian SSR had been made in Moscow. Accordingly, new Ukrainian leaders had no experience

of building an independent state, which made the country gravitate toward Russia, with no clear orientation in its domestic and foreign policy. As a result, in the first decades of its independence, Ukraine formed a centralized model of territorial organization of power (hereinafter referred to as TOP), characterized by monocentricity with elements of local self-government (Real local self-government existed only at the level of cities of oblast significance.) As a legacy of the Soviet era, this model was not conducive to reforms that could lead to the establishment of effective local and regional self-government. In addition, the country's leaders lacked the political will for real transformation. The centralized model of power and the lack of a systematic state policy in this area were some of the main reasons for the growing disparities in the socio-economic development of the regions, the emergence of powerful centrifugal tendencies, and certain manifestations of separatism, which were especially evident during election campaigns. A major negative trend was that Ukrainian politicians focused solely on building the "roof" of the state building instead of laying its foundations. In other words, the state-building process was carried out in a wrong way, by concentrating all political efforts on reforms of central government with complete disregard for local self-government. This approach was the result of the ruling political elite's insufficient understanding of the importance of the basic political institutions of municipal government. Reform decisions were made without proper scientific and public expertise, being largely determined by a compromise between political and corporate forces that were trying to maintain or establish control over the main institutions of public power or strengthen their own prerogatives. Due to the underdevelopment of civil society and the absence of powerful pro-reform movements among Ukrainian political parties, there was no significant pressure on the authorities to implement relevant transformations. Also, the low level of public trust in the authorities led to the widespread belief that the reforms were someone else's business.

Although the first mention of the institution of local self-government appeared in Ukrainian legislation on December 7, 1990 in the Law on Local Councils of People's Deputies and Local and Regional Self-Government,<sup>1</sup> this law was still far from offering real solutions. In the first decades of Ukraine's independence, its local self-government was a fictional construct, a Cinderella of the state, with no powers, means, or human resources. Politicians spoke of its great importance for the development of democracy during celebrations and election campaigns. In practice, however, the opposite was true: as soon as a political force was put in charge of the state, it directed its energy towards preserving or even strengthening the super-centralized model of power, ignoring local self-government. Year by year, local authorities were gradually deprived of their decision-making capacities, tax resources, control of the local infrastructure, and others. As a result of this short-sighted policy, Ukrainian villages continued to be neglected, with poor roads, crumbling infrastructure, and village heads who could do nothing more for the local community except affix their seals to official documents.

The first real attempt to transform this system was made in 2005 after the victory of the Orange Revolution, when Viktor Yushchenko was elected President of Ukraine. At that time, he enjoyed enormous popular support and international recognition, which facilitated the implementation of important reforms for the country. In his speech at the All-Ukrainian Meeting of Local Self-Government Representatives on April 26, 2005, President Yushchenko stressed the need for immediate administrative and territorial reforms and for a significant strengthening of local self-government. As noted in the annual address of the President of Ukraine to the Verkhovna Rada of Ukraine,

The constitutional reform of 2004 and the introduction of the party-based principle of forming local representative bodies in Ukraine in fact unbalanced the entire system of public power, both at the national and local levels. Contradictions arose not only in the triangular relation between the President, Verkhovna Rada and Cabinet of Ministers but also in the complicated and deteriorating relations between local authorities at different levels. A gap between the real needs of the population (employment, social security, healthcare, etc.) and the policies of local authorities

1. See: Pro mistsevi Rady narodnykh deputativ ta mistseve i rehional'ne samovryaduvannya [Про місцеві Ради народних депутатів та місцеве і регіональне самоврядування] [About local Councils of People's Deputies and local and regional self-government]. The Law of Ukraine, Document 533-XII, invalid, current version—Loss of force on June 12, 1997, available at <https://zakon.rada.gov.ua/laws/show/533-12#Text>.

became apparent. LSGs were gradually losing their natural mission to solve local problems. Instead, party-based councils were excessively politicized, making decisions that were beyond their authority and had nothing to do with local development.<sup>2</sup>

Therefore, due to the lack of political will and consensus between the political elite and the leaders of the state on the main parameters of the administrative-territorial reform, none of the planned reforms was implemented. Examples include the second stage of the constitutional reform to improve the system of local self-government (draft law No. 3207-1), the Concept of Local Self-Government Reform of July 29, 2009, and the Law on Territorial Organization,<sup>3</sup> the drafting of which had been widely discussed in public. As a result, another great chance to radically transform the country's political system at the local level was lost.

Ten years later, under the pressure of the second Maidan, the authorities were forced to launch a real transformation project in order to dismantle the centralized and, de facto, presidential republic, which posed a permanent danger of usurping power and establishing an authoritarian, kleptocratic regime. The Revolution of Dignity in 2014 was the catalyst of fundamental changes since the Ukrainian people protested against the excessive concentration of power in the hands of Viktor Yanukovich and his "family" and the transformation of Ukraine into a vassal of Russia. It finally became clear that Ukraine's existence as a centralized republic, which had been subjected to constitutional revision in 2004 and 2014, had been a futile endeavor. The tragic events of 2014 clearly demonstrated that this archaic political and territorial model was unable to ensure stable relations between the center and the regions, which are the basis for preserving the integrity of the state and facilitating its dynamic regional development.

The victory of the Maidan was a favorable moment to build a new type of state—a state that would serve its citizens and protect their interests, relying on self-governing institutions and civil society. This process was initiated by the Concept of Reforming Local Self-Government and Territorial Organization of Power in Ukraine of April 1, 2014, developed by the Ministry of Regional Development, Construction, Housing and Communal Services of Ukraine (hereinafter referred to as the Minregion) in cooperation with the expert community, representatives of local self-government and all-Ukrainian associations of local self-government.<sup>4</sup> The concept generally defined the optimal parameters of the reform, yet this governmental legal act required not only the adoption of a number of laws but also amendments to the Constitution of Ukraine. Unfortunately, as a result of political confrontation and the rejection of this reform by some political forces, four attempts to amend the Basic Law (two during the presidency of Petro Poroshenko and two during the presidency of Volodymyr Zelenskyi) failed, and some laws were not adopted, including the Law on the Principles of the Administrative and Territorial System (hereinafter referred to as ATS) of Ukraine. Given this situation, the reformers were forced to work within the framework of the existing provisions of the constitution. This approach was constantly opposed and harshly criticized by outspoken opponents of the reform at all stages, who not only made public statements in the media and the parliament but also filed lawsuits. These obstacles were compounded by the COVID-19 pandemic in 2020 and the full-scale invasion of Ukrainian territory by Russia in 2022.

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2. See: *Ukrayina v 2007 rotsi: vnutrishnye i zovnishnye stanovishche ta perspektyvy rozvytku* [Україна в 2007 році: внутрішнє і зовнішнє становище та перспективи розвитку] [Ukraine in 2007: internal and external situation and development prospects]. Expert report, available at <https://niss.gov.ua/sites/default/files/2007-03/Exp-Official-final-0106f.pdf> (Unless otherwise noted, all translations from Ukrainian and Polish are my own).

3. See: *Proekt Zakonu Ukrayiny "Pro terytorial'nyu ustriy Ukrayiny"* [Проект Закону України «Про територіальний устрій України»] [Draft Law of Ukraine "On the Territorial Organization of Ukraine"]. *Uryadovyy kur'er* [Урядовий кур'єр], no. 75, April 22, 2005, pages 10–13.

4. See: *Pro skhvalennya Kontseptsiiy reformuvannya mistsevoho samovryaduvannya ta terytorial'noyi orhanyzatsiyi vlady v Ukrayini* [On the approval of the Concept of reforming local self-government and territorial organization of power in Ukraine] [Про схвалення Концепції реформування місцевого самоврядування та територіальної організації влади в Україні]. Concept of reforming local self-government and territorial organization of power in Ukraine [Концепція реформування місцевого самоврядування та територіальної організації влади в Україні] Approved by order of the Cabinet of Ministers of Ukraine, dated April 1, 2014 No. 333, available at <https://zakon.rada.gov.ua/laws/show/333-2014-p?lang=en#Text>.

## 2 Taking into account foreign experience in the reform process

In the process of reforming local self-government, in order to introduce positive practices and avoid mistakes, Ukrainian experts studied in detail other countries' experience in decentralization of public power and territorial reforms. Such a comparative study seemed particularly justified in the case of Poland, bearing in mind its similarities to Ukraine, except for the size of its territory and its population density, affecting the number of people in a municipal community (*gmina*).<sup>5</sup> However, on the eve of the Ukrainian reforms, the realities of both countries were significantly different. Poland, which had launched the TOP reform much earlier, had made significant progress in its socio-economic development, which was the highest among the countries of the former socialist camp at the time, and had become a member of NATO and the EU. Instead, as noted above, Ukraine was late with fundamental reforms, which only exacerbated the negative trends.

It should be noted that the reforms in both countries were significantly influenced by their own peculiarities:

- The Polish reform envisaged territorial reform at the sub-regional and regional levels (*powiats* and *voievodships*) and the introduction of self-government at all three levels (*gminas*, *powiats*, *voivodships*).<sup>6</sup>
- The Ukrainian reform envisaged territorial reform at the basic and sub-regional levels (*territorial gromadas* and *raions*).
- The reform in Poland took place in several stages, while the reform in Ukraine was planned to take place in one stage, during 2014–2017.
- The success of the Polish reforms was facilitated by a clear functional division between the parliament, government, experts, and NGOs, which formed a kind of “reform headquarters” (Office and Bureau of Government Representative for Reform of Local Government), headed by Jerzy Regulski, the reform commissioner. The office was directly subordinated to the Prime Minister, while the bureau was subordinated to the government. At the same time, the Senate had a Commission on Territorial Self-Government. The Local Democracy Development Fund was active in the public space.<sup>7</sup>
- By contrast, there were several decentralization reform management centers in Ukraine (under the President, the Verkhovna Rada, the Cabinet of Ministers, and the Ministry of Regional Development), and their activities were not sufficiently coordinated, which significantly complicated the reform process.

Table 1 on next page shows the state of the TOP in both countries on the eve of the Ukrainian reform in 2014. As can be seen from table 1, the biggest problems of the Ukrainian system of TOP were concentrated at the basic level, as Ukraine ranked third in Europe, after France and Germany, in terms of the number of basic level councils. There was a large difference (4.4 times) in the ratio of the number of Ukrainian local councils (11,626) to Polish *gminas* (2,489). While in Ukraine there were 49 square kilometers of territory and 1.4 thousand people per village council, in Poland the figures were 110 and 10.4 respectively (Malynovs'kyi 2007, 238). In view of the above, the Polish *gmina* model deserved a detailed study and borrowing of its individual elements.

There was yet another significant difference between the Ukrainian and Polish reforms. In 1970, 4,313 *gminas* had been consolidated into the number of 2,394, including 247 cities, 26 urban dis-

5. For the sake of consistency, all the Polish and Ukrainian names of territorial units that appear in the article, unless mentioned for the first time, are given in roman print rather than italics even though some of them are less commonly used in English than others.

6. [Although at the English version of Statistics Poland website one can see that “administrative (territorial) division of Poland was introduced on 1 January 1999 and divided the territory of Poland into voivodships, then into powiats (including gminas that are cities with powiat status) and gminas,” Official English translations of Polish names *gmina*, *powiat*, and *województwo*, according to Commission on Standardization of Geographical Names Outside the Republic of Poland, should be respectively: commune, county, and voivodship. — Ed.]

7. See: Porivnyal'nyy analiz protsesu Detsentralizatsii Ukraïny ta Pol'shchi [Comparative analysis of the decentralization process of Ukraine and Poland [Порівняльний аналіз процесу децентралізації України та Польщі]. Analytical note by Mykola Krat and Oleksandr Sofiy [Микола Крат, Олександр Софій], available at <http://dialog.lviv.ua/wp-content/uploads/2017/10/Porivnyalniy-analiz-protsesu-detsentralizatsiyi-Ukrayini-ta-Polshhi.pdf>, page 16.

**Table 1.** State of territorial organization of power in Ukraine and Poland before the 2014 reform

Level of territorial organization	Ukraine	Poland
Regional	24 oblasts	16 voivodships
Subregional	490 raions	308 powiats + 65 cities with powiat rights
Basic	11,626 local councils	2,489 gminas

Source: Author's elaboration based on data published by statistical offices in Poland and Ukraine.

tricts, 1,546 rural gminas and 575 mixed gminas. In the early 1990s, the process of reviving local self-government at the level of these territorial units began in Poland. On 8 March 1990, the Law on Gmina Self-Government was adopted, the purpose of which was to fill gmina with new powers and functionality.<sup>8</sup> Since then, the gmina has been the main unit of local self-government. The Law On Elections to Gmina Councils, which was adopted at the same time, made it possible to hold democratic local elections.<sup>9</sup> Decentralization and subsidiarity were the fundamental principles of the reforms implemented in Poland. Vesting gminas with real power — i.e., the ability to resolve all local issues under their own responsibility and in accordance with their own vision, was the main strategic result of the administrative-territorial reform in Poland (Hontsyazh et al. 2001, 10). Secondly, the gmina became the main provider of public services and the main partner in addressing the basic needs of the citizens. The introduction of new gminas had two very important consequences not only for the development of local self-government but also Poland as a whole:

- It greatly activated local communities, as their members felt that they were able to really influence the state of affairs in their locality and could exercise control over the local authorities. This was achieved by local initiatives through which commune residents united into independent committees in order to implement local projects: laying water and gas pipes, building sewage systems and roads, and others.
- It improved the efficiency of public finance. The introduction of public control over spending and municipal officials' awareness of real public needs optimized budget expenditures.

The new status of gminas was fully in line with the development trends of municipalities in the European Union, which facilitated Poland's cooperation with Brussels institutions and opened the way to attracting international programs, grants, and investments.

The gmina, which is the closest to the citizens, was assigned the following powers: pre-school (kindergartens) and school education (primary schools and gymnasiums), culture (libraries and cultural centers), healthcare (clinics and health centres, and also hospitals in urban gminas), social assistance, maintenance of local public transport, construction and maintenance of local roads, municipal infrastructure (water supply, sewerage, waste disposal, and heating), environmental protection, and public order and the citizens' safety.<sup>10</sup> In addition, gminas perform delegated functions, such as registration of births and marriages. The decision-making authority at the level of the rural district (*sołectwo*) is the rural assembly (*zebranie wiejskie*), and the executive body authority is the village head (*sółtys*), who is advised by a council (*rada sołeczka*). Both *sółtys* and *rada sołeczka* are chosen in a secret and direct election from among the permanent residents of the rural district.<sup>11</sup>

During 1993–1997, the theoretical, legal and practical basis for the introduction of self-government at the level of powiats and voivodships was prepared, which allowed the centrist coalition and the government led by Jerzy Buzek to prepare and submit a package of relevant laws to the parliament in the shortest possible time after the 1997 parliamentary elections. In 1998, the Law

8. See: Ustawa z dnia 8 marca 1990 r. o samorządzie terytorialnym [Act of March 8, 1990 on local government]. DzU z 1990 r. nr 16 poz. 95.

9. See: Ustawa z dnia 8 marca 1990 r. Ordynacja wyborcza do rad gmin [Act of March 8, 1990, Electoral Regulation for Municipal Councils.]. DzU z 1990 r. nr 16 poz. 96.

10. See: Ustawa z dnia 8 marca 1990 r. o samorządzie terytorialnym, op. cit.

11. Ibid.

on Powiat Self-Government was adopted<sup>12</sup> along with the Law on Voivodship Self-Government<sup>13</sup>, which made it possible to introduce a three-tier territorial division (gmina, powiat, voivodship) on January 1, 1999. In the course of the Polish reform, the powiat level was introduced (308 powiats and 65 cities with powiat rights) and the number of voivodships was reduced from 49 to 16. At the same time, decentralization and democratization of local and regional government were implemented: at the voivodship level, the powers and functions of the state administration were significantly limited and executive self-government bodies were introduced at all levels of territorial structure. For this purpose, 149 new laws were adopted. The Basic Law of Poland stipulates that the state assumes only those tasks and functions that cannot be solved by local communities. Accordingly, only 5% of powers are concentrated at the central level, with 30% and 65% being concentrated at the regional and local levels respectively (Hontsyazh et al. 2001, 69).

As Jacek Kozłowski (voivode<sup>14</sup> of Mazowieckie Voivodship) noted,

The Polish reform of local self-government was a reform of the political system and had a great impact on the reform of the economy. In addition, the success of the Polish reforms and the reason for the rapid democratic changes in the early 1990s of the last century was that these three key reforms—the reform of the political system, the reform of the system of economic relations, and the reform of the public administration system—were carried out in parallel and very quickly. Therefore, the point is this: when we simultaneously reform key aspects of social and political life in a short period, the positive results accumulate and add up. If reforms are stretched over time, then we help those who are against them and criticize them.<sup>15</sup>

Unlike Poland, Ukraine had to implement two reforms at the basic level: territorial and administrative. Encountering constant resistance from opponents, the decentralization reform in 2014–2020 went through a difficult and thorny path. However, unlike the previous reform attempts, the government's consistency and political will made it possible to overcome all endeavors by internal and external enemies to block the most important Ukrainian reform. As a result, the territorial basis of public power, formed in the Soviet era, was dismantled, and a new ATS was introduced throughout Ukraine at the primary and subregional levels. This created the preconditions for the following:

- formation of an effective model of public authority to ensure sustainable socio-economic development of individual TCs and territories
- active involvement of local self-government bodies in state-building processes through proper representation of their interests and participation in determining the priorities of the state's regional policy
- creation of conditions for stimulating economic development of territorial units as a result of improving the mechanisms of the influence of local self-government bodies on setting local economic development priorities
- improvement in the accessibility, quality and timeliness of public services provided to TC residents
- creation of favorable conditions for the greatest possible involvement of the citizens in local self-government, which is a prerequisite for the formation of civil society

In a relatively short period, Ukrainian reformers managed to accomplish what they had failed to do (despite repeated attempts) during the previous decades of the country's independence. It is extremely important that the main objective of the reform was achieved: all over Ukraine, 1,469 TCs were formed, becoming a basis for primary-level municipal authorities and the main providers of quality public services to citizens. It should be noted that the first stage of TCs' amalgamation

12. See: Ustawa z dnia 5 czerwca 1998 r. o samorządzie powiatowym [Act of June 5, 1998 on district self-government]. DzU z 1998 r. nr 91 poz. 578.

13. See: Ustawa z dnia 5 czerwca 1998 r. o samorządzie województwa [Act of June 5, 1998 on voivodship self-government]. DzU z 1998 r. nr 91 poz. 576.

14. [province governor—Ed.]

15. See: Prefekt bude derzhavnym sluzhbovtsem i tsya posada ne nalezhatyme do politychnykh, - V'yacheslav Nehoda [Префект буде державним службовцем і ця посада не належатиме до політичних, — В'ячеслав Негода] [The prefect will be a civil servant and this position will not belong to political ones, — Vyacheslav Negoda]. Ukraine Government Portal, August 7, 2015, available at <https://www.kmu.gov.ua/news/248392049>.

(2015–2020) was voluntary, and it was only at the final stage of the reform (in May–June 2020) that the government completed the process of their formation. As a result of these transformations, in accordance with the principle of subsidiarity, all issues of local importance fell within the competence of TCs. In this way, favorable conditions were created for the formation of an “active community” whose residents are involved in the process of solving local issues.

Another major victory was the territorial transformation at the sub-regional level: 490 raions formed in the Soviet period were abolished and 136 new raions that met the requirements of NUTS-3 were formed.<sup>16</sup> In contrast to the voluntary mechanism for creating united territorial communities, in which the will of the community was decisive, the configuration of the new raions was determined by the center, represented by the Cabinet of Ministers of Ukraine and the Verkhovna Rada of Ukraine (see table 2).

**Table 2.** Local government of Ukraine before and after the reform

Before reform	After reform	Result
24 oblast councils	24 regional councils	No changes
490 raion councils	136 raion councils	Decrease by 3.6 times
11,626 local councils, including: 10,279 rural councils 885 settlement councils 462 city councils	1,469 territorial gromadas (rural councils, settlement councils, and city councils)	Decrease by 7.9 times
230,816 local deputies of councils	42,501 deputies of councils	Decrease by 5.4 times
100,789 local government officials	22,000 local government officials	Decrease by 4.5 times
100,789 local government officials	22,000 local government officials	Decrease by 4.5 times

It is important that the inequality of LSGs that had existed in Soviet times was eliminated. From then on, all TCs, regardless of whether they were rural, settlement or urban communities, had the same legal status, powers, sources of funding, independent budgets and, most importantly, independence from the rayon or oblast. The “Soviet” division into cities of “republican significance,” “oblast significance” and “raion significance” had finally disappeared. At present, irrespective of their population, they have the same status.

Thus, it was only in the twenty-ninth year of our independence that we managed to fulfill the main task of the national transformation project—to lay a solid foundation not only for municipal authorities but also for the entire government of the Ukrainian state. This opened up opportunities both for creating an effective management model at other levels of the ATS and for making significant progress towards the European and Euro-Atlantic course of our country. The effectiveness of the implementation of the decentralization reform has been recognized by the European Parliament:

The European Parliament welcomes Ukraine’s achievements in implementing the decentralization reform and empowering local authorities, which has been one of the most successful reforms to date, recognises the support of U-LEAD and the formation of more than 1000 TCs, positively assesses the steps taken to decentralize state power and budgets through the approval of regulations and their practical implementation, and calls on the European Commission to carefully study the successful practices of the decentralization reform in Ukraine and consider their practical implementation in other countries.<sup>17</sup>

16. See: Pro utvorennia ta likvidatsiyu rayoniv [Про утворення та ліквідацію районів] [About the formation and liquidation of districts]. Resolution of the Verkhovna Rada of Ukraine, July 17, 2020, document 807-IX, valid, current version—revision on September 7, 2023, available at <https://zakon.rada.gov.ua/laws/show/807-20#Text>.

17. See: Yevropeys'kyy Parlament vyznav detsentralizatsiyu odniyeyu z nayuspishnishykh reform v Ukrayini [The European Parliament recognized decentralization as one of the most successful reforms in Ukraine] [Європейський Парламент визнав децентралізацію однією з найуспішніших реформ в Україні]. Ministry of Development of Communities and Territories of Ukraine, published on February 12, 2021 at 5:08 p.m., available at <https://www.kmu.gov.ua/news/yevropejskij-parlament-viznav-decentralizaciyu-odniyeyu-z-najuspishnishih-reform-v-ukrayini> (accessed 2024-01-02).



### 3 Prospects for the completion of the reform

Russia's full-scale invasion of Ukraine on February, 2022 was a significant test for local self-government. The Russian-Ukrainian war challenged the completion of the decentralization process and impeded the exchange of information necessary to make complex decisions in this field. However, an analysis of the situation shows that even in these difficult conditions, the municipal government system is performing quite well. In the areas close to hostilities, TCs are an important element in the system of ensuring security and resistance to the enemy. As representatives of the state, local authorities are responsible for the creation of territorial defense units and volunteer centers in accordance with the Consolidated Plan of Territorial Defense of Ukraine,<sup>18</sup> healthcare facilities, the construction of fortifications, and other activities in the field of defense. Some cities have shown unprecedented examples of heroic resistance to the enemy, for which they have been awarded the honorary title of Hero City of Ukraine. Examples include Bucha, Irpin, Mariupol, Kharkiv, Chernihiv, Kherson, and Mykolaiv, whose names have become famous all over the world. The mayors of these cities have proved to be true community leaders, capable of organizing the lives of their citizens under extremely difficult wartime conditions and providing considerable assistance in defending the country.

Having passed through several stages, the decentralization reform has not yet been finalized, as a new model of public administration at all territorial levels is still to be established. Despite the initial success, it still requires significant efforts and a consistent political strategy. As noted above, due to the failure to amend the Constitution of Ukraine, the transformation of public administration at the subregional and regional levels has not been completed. However, given that these levels are of secondary importance for serving citizens, this fact does not pose a threat to the overall plan for the reform of local self-government and TOP. In order to ensure the sustainability and irreversibility of the decentralization of power and effective democratic local self-government, a number of laws need to be adopted in addition to amendments to the Basic Law. In particular, the issues of the ATS, the organization of public authorities at the level of districts and regions, and the introduction of a comprehensive system of administrative supervision and control need to be legally regulated. Sectoral reforms need to be significantly accelerated and synchronized, especially with respect to education, healthcare, culture, and finances. Local legislation should ensure the fairness and transparency of the electoral process as well as real opportunities for all citizens to participate in local politics. In the process of legislation, the negative aspects (non-transparency of the electoral system, low legitimacy of the local governments, total control of the party leaders over the local leaders) should be minimized.

According to Oleksandr Kubrakov, Minister of Development of Communities, Territories and Infrastructure of Ukraine, the key tasks of the decentralization reform at the current stage are as follows:

- “delimitation of the powers of local self-government bodies and executive authorities;
- development of local democracy. The Verkhovna Rada of Ukraine has already adopted relevant legislative initiatives in this direction in the first reading (draft laws No. 6319 and No. 7283);
- legislative regulation of the resumption of the activities of local authorities and executive bodies in the de-occupied territories along with the transition from military administration to civilian administration;
- strengthening the financial capacity of local self-governments, and, in particular, improving the mechanism for transferring personal income tax to local budgets as well as reviewing the mechanism of horizontal equalization of local budgets.” (Kubrakov 2023).

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18. See: Pro rishennya Rady natsional'noyi bezpeky i oborony Ukrayiny vid 24 lyutoho 2022 roku “Pro vvedennya v diyu planu oborony Ukrayiny ta Zvedenoho planu terytorial'noyi oborony Ukrayiny.” [Про рішення Ради національної безпеки і оборони України від 24 лютого 2022 року «Про введення в дію плану оборони України та Зведеного плану територіальної оборони України»] [On the decision of the National Security and Defense Council of Ukraine dated February 24, 2022 “On the implementation of the Defense Plan of Ukraine and the Consolidated Territorial Defense Plan of Ukraine”]. Decree of the President of Ukraine, Document 70/2022, valid, current version—Entry into force on February 24, 2022, available at <https://zakon.rada.gov.ua/laws/show/70/2022?lang=en#Text>.

In view of the above, it can be noted that the domestic system of municipal authorities plays an important role in the overall organization of public authorities in the context of global challenges that threaten national security. The timely completion of the territorial reform and the decentralization of power in 2020 enabled TCs to fully perform their functions. This testified to the correctness of the approach introduced by the ideologists of the decentralization reform. At the same time, the sub-regional level of self-government, represented by raion councils, confirmed its functional uncertainty, which still needs to be resolved. The same is true of oblast councils, representing a different level of municipal government, which need to be reformed with respect to their competence and the specific powers divided between them and regional executive authorities. It is also time to restore these councils' natural status as **regional self-government bodies**, which they, together with raion councils, had in the first years of independence.<sup>19</sup>

In the process of solving these problems, it is worth turning to the experience of Poland. In particular, in the context of the prospects for restoring the institution of regional self-government in Ukraine, it is advisable to analyze the specifics of the functioning of regional self-government bodies at the voivodship level in Poland. With their establishment, the nature of relations between the center and the regions, especially in the field of regional policy, changed dramatically. The exclusive competence of voivodship council (*sejmik wojewódzki*) is to adopt a strategy for the development of the voivodship, which is implemented through regional perspective programs (Nyzhnyk and Honcharuk 2009). Similarly to France, in 2000 Poland introduced the practice of concluding regional contracts between the Council of Ministers and voivodship self-governments. In the context of reforming public authorities at the regional level, attention should also be paid to the experience of the Polish parliament and regional assemblies with special emphasis on the division of powers between the Marshal of the Sejm and the marshals of voivodships.

The Polish system of state representatives' administrative supervision over the activities of municipal bodies is worth studying, as the absence of such supervision in Ukraine leads to local authorities' disregard for national legislation and violation of citizens' rights. In Poland, the prime minister and voivods oversee the activities of local self-government bodies, and regional chambers of accounts oversee budgetary matters. According to Article 152 of the Constitution of the Republic of Poland,

1. The voivod shall be the representative of the Council of Ministers in a voivodship.
2. The procedure for appointment and dismissal, as well as the scope of activity, of a voivod shall be specified by statute.<sup>20</sup>

For example, in the case of repeated violations of the constitution or laws by a gmina council, the Sejm may, upon the prime minister's proposal, decide to dissolve it, and the prime minister is also empowered to introduce the "commissioner's rule" for a period of up to two years. In this case, at the request of the voivod, the prime minister appoints a government commissioner, nominated by the Minister of the Interior and Administration. The commissioner is entrusted with the exercise of powers and functions of the gmina's executive bodies. If the said violations are committed by a voivod, the voivod is dismissed by the prime minister. In such a case, the prime minister, upon the proposal of the Minister of the Interior, appoints a government commissioner, who performs the dismissed voivod's functions until a new voivod is elected.

In order to learn from Poland's experience in this area, in 2015, the Minregion and the Kyiv Office of the Solidarity FundPL invited Polish experts in local self-government reform: Jacek Kozłowski, Mazowiecki Voivod, and Grzegorz Kubalski, Deputy Director of the Bureau of the Association of Polish Powiats and expert of the Sejm of the Republic of Poland. Led by Markian Zheljak, the experts prepared a draft of the Ukrainian Law on Prefects together with experts from the Minregion and local self-government bodies.<sup>21</sup>

19. See: Pro mistsevi Rady narodnykh deputativ..., op. cit.

20. See: Official English translation of The Constitution of the Republic of Poland of 2nd April, 1997, as published in Dziennik Ustaw No. 78, item 483, available at <https://sejm.gov.pl/prawo/konst/angielski/kon1.htm>.

21. See: Prefekt bude derzhavnym sluzhbovtsem..., op. cit.

The practice of cooperation between Ukrainian and Polish local authorities has become an effective form of exchanging experiences. Examples include the Good Governance internship program, implemented by the Polish International Solidarity Fund with the participation of the Ministry of Foreign Affairs of the Republic of Poland, the U-LEAD with Europe program, and the Association of Polish Cities. Ukrainian trainees study the experience of Polish gminas and, together with their mentors, develop their own projects, which are subsequently implemented in Ukrainian communities.

## Conclusion

The results obtained in the course of our research indicate that the goal of the Ukrainian reform of self-government has been achieved. To summarize, the following conclusions can be drawn:

- The decentralization reform, which included territorial and administrative components, was successful, unlike previous reform attempts. It dismantled the ATS formed in the Soviet period and introduced a new territorial basis for public authorities at the basic and subregional levels. At the basic level, the main outcome was the formation of capable TCs, which are the basis of municipal government and the main element of local democracy, and at the subregional level, it was the formation of new raions.
- The experience of Poland and the advice of Polish experts played an important role in the Ukrainian reform of local self-government and TOP. Ukrainian-Polish cooperation in this area was highly productive, and the contribution of Polish experts to the reform was significant. During this cooperation, Ukrainian local government officials had the opportunity to visit Polish gminas and acquire first-hand experience, which they used while adopting Polish solutions in their home country. Also, numerous cooperation agreements between the TCs of both countries were signed.
- It should be noted that the study of Poland's experience in the field of administrative and territorial organization shows that reforms require a kind of "convergence," systematic analysis and implementation of empirically gathered best international practices, taking into account specific national realities, which, in turn, requires an innovative, unconventional vision and a significant correction of practical approaches. This is the way the Ukrainian reform was implemented. Rather than blindly copy foreign experience, it introduced only positive examples and ignored negative ones. For instance, the Polish practice of introducing cities with powiats rights, which was considered erroneous by Ukrainian decentralizers, was rejected. In addition, the powers and functions of TCs and gminas, and especially of raions and powiats, differ significantly.
- As a result of this approach, based on the proven and efficient models of TOP in foreign countries, and taking into account the specific features of Ukrainian society, it was possible to form an original national model of TOP with effective TCs. Thus, two important state-building tasks were fulfilled at the same time. At the national level, the reform resulted in forming a democratic and capable system of local self-government as the basis of public power. At the international level, it brought the national model of TOP closer to EU standards, which was an important step in the Euro-Atlantic direction of Ukraine's development.

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