

## HISTORY OF THE INSTITUTION OF LOCAL SELF-GOVERNMENT IN UKRAINE AT VARIOUS STAGES OF THE COUNTRY EVOLVEMENT. THE EUROPEAN CHOICE OF UKRAINE

Kaliuzhna S. V., Petrova N. O., Bondar N. A.

*This scientific article focuses on the essence and historical development of the institution of local self-government in Ukraine at various stages of our country's evolution, the historical traditions of the formation and development of local self-government, as well as the European choice of Ukraine. Today, the researchers distinguish the historical and constitutional model of self-government in Ukraine in their studies devoted to the development of this institution of power. In this study, we will focus on the historical model of self-government in Ukraine.*

*At the current stage of Ukraine's development as a democratic, social state of law, taking into account recent global changes, the development of local self-government is among the priorities of state policy. The European choice made by the population of Ukraine resulted in newfound relevance of implementation of ratified treaties with EU countries, including the provisions of the European Charter of Local Self-Government, and also ensured the quality development of the country's regions as an important component of Ukraine's economic system.*

*At the turn of the 20th and 21st centuries, with the confirmation of its European choice, Ukraine announced its strategic goal to access the European Union.*

*As an integral part of Europe, Ukraine is guided by the model of socio-economic development applicable in leading European countries. The process of European integration of Ukraine as the transformations taking place in the state is aimed at achieving political stability, development of democracy, observance of the rule of law, respect for human rights and fundamental freedoms, gender equality and non-discrimination and the introduction of social standards of EU member states in Ukraine, as well as increasing the level of support by society for Ukraine's strategic goal of accessing the EU.*

**Key words:** local self-government, periodization, Europeanization, Russification, Ukrainization, Magdeburg law, Cossack state, state of law, European Union.

Калюжна С. В., Петрова Н. О., Бондар Н. А.  
Історичний розвиток інституту місцевого самоврядування в Україні на різних етапах становлення країни. Європейський рівень України

У науковій статті досліджено сутність та історичну природу розвитку інституту місцевого самоврядування в Україні на різних історичних етапах нашої держави, історичні традиції становлення та розвитку місцевого самоврядування, а також Євроінтеграційний вибір України. Сьогодні, приділяючи увагу розвитку місцевого самоврядування на теренах України, дослідники, як правило, виділяють історичну та конституційну модель самоврядування в Україні. В даній роботі зупинимося на історичній моделі самоврядування в Україні. В цілому можна погодитись з періодизацією розвитку місцевого самоврядування, запропонованою І. Грицяком, за нею місцеве самоврядування у своєму розвитку пройшло 4 основні етапи.

На сучасному етапі розвитку України як демократичної, соціальної та правової держави, враховуючи останні глобальні зміни, розвиток місцевого самоврядування є одним із пріоритетних напрямів державної політики. Європейський вибір населення України актуалізував проблему імплементації ратифікованих угод із країнами ЄС, включаючи положення Європейської хартії місцевого самоврядування, а також забезпечив якісний розвиток регіонів країни як важливий компонент економічної системи України.

На рубежі ХХ-ХХІ століття Україна, підтверджуючи свій європейський вибір, проголосила свою стратегічну мету - вступ до Європейського Союзу. Як невід'ємна частина Європи Україна орієнтується на чинну в провідних європейських країнах модель соціально-економічного розвитку. Процес європейської інтеграції України як здійснення перетворень у державі орієнтований на досягнення політичної стабільності, розвиток демократії, дотримання верховенства права, повагу до прав людини та основоположних свобод, гендерну рівність і недискримінацію та впровадження в Україні соціальних стандартів держав - членів ЄС, а також підвищення рівня підтримки суспільством стратегічної мети України - вступу до ЄС.

**Ключові слова:** місцеве самоврядування, періодизації, європеїзація, русифікація, українізація, Магдебурзьке право, козацька держава, правова держава, Європейський Союз.

**Problem statement.** The problem of identifying the main stages of the local self-government development in Ukraine was raised by various researchers. In general, the periodization of the local self-government development proposed by I. Hrytsiak is considered acceptable. According to this periodization, the development of local self-government has four main stages: from the beginning to the pre-state era, followed by the time of the Eastern Slavs, further Europeanization and subsequent Russification, and up to attempts of Ukrainization that started in the 20's of the 20th century and is still lasting. The origin and development of self-government in Ukraine was marked by many peculiarities determined both by the policy of the power circles of the state, which included Ukrainian lands, and by the domestic economic, social and cultural needs of the region. It is important to emphasize that different stages of the history of local self-government in Ukraine were characterized by alternating prosperity and decline, or a complete prohibition. It is appropriate to determine that, under the conditions of independence of Ukrainians and the buildup of a state of law with distributed power, the local self-government as an institution and process is observed to activate. With the confirmation of its European choice, Ukraine announced its strategic goal to access the European Union. The requirements for potential EU members largely coincide with the tasks that must be solved in our country, and, firstly, with those related to the development of democratic processes, people's quality of life, etc.

The development of self-government in Ukraine was marked by many peculiarities determined both by the policy of the power circles of the state, which included Ukrainian lands, and by the domestic economic, social and cultural needs of the region. Different stages of the history of local self-government in Ukraine were characterized by alternating prosperity and decline, or a complete prohibition. With the independence of Ukrainians, the rule of law and division of power, a local self-government as an institution and process is intensifying.

Local self-government is a product of the long-lasting development of human civilization and it dates back to tribal self-government, which existed even before the emergence of the state. Elements of local self-government are well known since ancient times. Attempts to build a Ukrainian model of local self-government were made by all independent

Ukrainian governments (General Secretariat, Hetmanate, Directorate), and this is the reason why this time could be considered a milestone from which the process of Ukrainization in the self-government development started. The numerous laws and by-laws implemented since 1991 (including the Constitution of Ukraine) enabled to an extent the national system of local self-government to develop and improve its own model.

The process of Ukraine's formation as a democratic and social state of law, first of all, involves the establishment of effective interaction among executive authorities, local self-government bodies and structural formations of political parties and institutions of civil society. Such interaction should be based on partnership, mutual interest in achieving goals related to democratization of all spheres of public administration and social life, socio-economic and spiritual progress, comprehensive protection of human and citizen rights and liberties.

It should be noted that at the current stage of the development of Ukraine as a democratic and social state of law, taking into account the recent global changes, the development of local self-government is among the priorities of state policy. The European choice made by the population of Ukraine resulted in newfound relevance of implementation of ratified treaties with EU countries. Subject to the importance of this problem, the need arises - at the current stage of development of all branches of government - to improve the theory and practice of modern state-building affected by transformations in the political system of society, the implementation of administrative-territorial, regional reforms, establishment of constructive social partnership between the center and territories. During the promulgation of reforms in Ukraine, which were aimed at building-up statehood in general and a modern European state as well, a number of measures were taken to decentralize power. Study of this problem is of particular relevance since the search for an optimal model of local government requires an analysis of own historical experience and the experience of European countries.

#### **Analysis of recent research and publications.**

Domestic experience of local self-government is studied in various directions. In particular, the establishment and development of local self-government are studied by I. Kozyrev [1, p. 11], S. Serohin [2, p. 111-120] et al. Legal aspects are examined by M. Baimuratov [3, p. 14-17], O. Batanov [4, p. 18-22], M. Korniienko [5, p. 348-355], M. Pukhtinskyi [6, p. 37], and regional aspects

are studied by O. Vlasiuk [7, p. 5-18], F. Serban [8, p. 7-14] et al. The contemporary reformation is reflected in the works by A. Selivanov [9, p. 6], M. Sydorchuk [10, p. 7], P. Pokataiev [11, p. 116-120], T. Andriievsykiy [12, p. 46-47].

The studies of legal literature proved that at various stages of the formation of Ukraine as an independent state, scientists considered various problems arising in the performance of local self-government bodies (LSG) within the scope of constitutional, municipal and administrative law. At the same time, the new conditions of today drew attention to the analysis of those works that took into account European integration, reform of LSG, the task of building-up an information society in Ukraine.

This article aims to conduct a comprehensive analysis of the institution of local self-government in Ukraine at various historical stages of the state development. To achieve this aim, the task was set to determine the historical traditions of the development and formation of local self-government, emphasize the importance of rapprochement with the EU for the creation of reliable mechanisms of political stability, democracy and security, as well as guaranteeing tools for the buildup of democratic institutions in Ukraine.

#### **Statement of basic materials.**

The basic idea of this article is that the historical traditions of the development of local self-government of Ukraine in its modern territorial dimensions have gone through a very difficult historical path. Dating back to the times of Kievan Rus, Ukrainian local self-government for centuries was under constant influence of Eastern and Western political cultures resulting from the special geopolitical position of our country. The variety of approaches of researchers, first of all, to the analysis of historical realities that existed in different eras in different regions of the country and determined its origin, formation and emergence of features specific to the functioning and development of local self-government in the Ukrainian state, have not yet enabled to make a clear, complete and objective picture of it [13, p. 83]. Certain complications in this article are also caused by a still strong stereotype, which impedes some scientists to perceive the heredity of Ukrainian statehood with all its institutions dating back to the times of Kievan Rus and throughout the following centuries. However, such ‘inferior’ and distorted ideas about the historical durability of Ukrainian statehood are too easily broken by the so-called theory of three

elements (or the sociological concept of the state) developed by the German political scientist Georg Jellinek (1851-1911) [14, p. 1]. According to this theory, the organic components of any state are the territory of the state, the people of the state, and the power of the state. As known, all three elements were fully available in Kievan Rus. They were also present to a greater rather than lesser extent. Thus, such Ukrainian states as the Principality of Galicia-Volhynia, the Cossack state of the second half of the 17th century, the Ukrainian People’s Republic, the West-Ukrainian People’s Republic and the Ukrainian Soviet Socialist Republic, which existed with varying degrees of development in different eras within the territory of modern Ukraine and were destroyed by warriors (except for the Ukrainian SSR), could undoubtedly be considered as the historical stages of the development of one single state of Ukraine [15, p. 309]. Today, when highlighting the development of local self-government in Ukraine, the researchers usually highlight the historical and constitutional model of self-government in Ukraine. It is appropriate to support the position and dwell on the theory developed by I. Hrytsiak. He distinguishes four historical models for periodization of local self-government in Ukraine:

1. Origin, formation and development of domestic forms of local self-government based on a kindred and a sovereign community; its chronological framework reached the time of the emergence and formation of the state of the East Slavic tribes on Ukrainian lands and up to the middle of the 14th century.

2. Europeanization, which was characterized by a combination of local forms of self-government with elements of the West-European forms of self-government (in particular, the German city of Magdeburg), began in the middle of the 14th century and ended in the first half of the 19th century.

3. Russification of domestic local self-government in the territory of modern Ukraine, the greater part of which, and in particular the central, eastern, and later southern regions, was part of Tsarist Russia. Although the process of Russification in the local self-government of Ukraine began somewhere at the end of the 17th century, it reached its peak in the 19th century and at the beginning of the 20th century.

4. An attempted Ukrainization of local self-government, which should be considered to start in the 20's of the 20th century and is still going on [16]. One of the supporters of this periodization,

I. Lytvynenko, considers it expedient to distinguish the fifth stage, namely, the modern reform of local self-government, which is characterized by contradictory processes of choosing the optimal model for arrangement of local self-government in Ukraine based on the main international municipal standards and the distinctive features of the Ukrainian community development [17, p. 43-49].

It should be stressed that the problem of identifying the main stages of the local self-government development in Ukraine was raised by various authors. Using the periodization of the local self-government development proposed by I. Hrytsiak as a basis, the history of local self-government should be reviewed more closely. The origin, formation and development of domestic forms of local self-government began in the pre-state era of the East Slavic tribes. First of all, these processes spread to the Polans, their families, which were related by blood and were called a kindred. Over time, blood kinship was replaced with neighborhood, i.e. proximity by residence rather than origin [18, p. 14]. In this way, small settlements like hamlets formed occupying the entire neighborhood, i.e. a certain territory, which can be compared with a district, a region in modern terms. Owing to neighborly communication among the villages, towns and regions, the rules of conduct were spreading territorially and taking unified forms (now we call it customary law).

Taking into account the fact that the majority of immigrants coming to the Ukrainian lands were Germans and Poles, local self-government was based mainly on German law, which was widely applied in the management of towns in Germany, Poland, and other Central European countries. In this way, the foundation was created for the spread and rooting of the principles of self-government applied in the German town of Magdeburg (hence Magdeburg law) in the coming centuries in the majority of Ukrainian towns, and later also of individual models of local self-government in other towns and states neighboring Ukraine [19, p. 111]. The essence of Magdeburg law, according to N. Kaminska, was that the town population was liberated from the jurisdiction of the government administration (feudal lords, governors, proxy rulers, etc.) and the town was given the opportunity of self-government on a corporate basis. The community included burghers, i.e. residents of the town, but only those who lived outside the land territory that belonged to the bishop or the princely castle. However, the hierarchy of solvency, group and individual social and legal statuses determines

the entire legal life of society, the ‘measure of honor’ of each social group and individual [20, p. 77].

Based on purely historical realities, the spread of Magdeburg law in Ukrainian towns and villages can be considered as having positive consequences. Processes of interaction between the western and eastern regions that were extremely important for the Ukrainian people took place, which later, i.e. in the middle of the 17th century, determined the socio-economic and political nature of the national movement led by the Cossacks [21, p. 316]. This national liberation movement led to the formation of the Ukrainian Cossack state in its national essence on the original territory of ethnic Ukrainians. During the time of this state, local self-government underwent significant changes. Thus, self-government remained in towns with Magdeburg law, and this gave them independence from the Cossack administration. It is worth noting that the bourgeoisie of this period was not large, it was mainly concentrated in small towns, and its occupation was similar to the daily chores of ordinary grain-growers living in villages. For this reason, the urban residents of the Left Bank of Ukraine did not manage to win a social position with adequate influence for themselves during the Cossack rule, which led to constant encroachments on their rights by the Cossack administration [22, p. 33]. However, in the Cossack state, towns with Magdeburg law were no longer exposed to cultural and religious oppression, urban life developed freely based on its traditions, but within the framework of the Magdeburg system.

It should be noted that the Cossack self-government in Sich was in the process of formation for a long time and had numerous democratic elements such as the election of the government (commanders of Cossack camp and smaller divisions), and in general applied the self-government principles to resolve the most important economic, military, judicial issues, and to elect the Sich council. Some scientists, as noted by I. Lytvynenko, claim that ‘the beginning of Ukrainian municipalism formation should be associated with the Cossack state’ [17].

It was found that another division of the territory of Ukraine between the Russian and Austrian empires began at the end of the 18th century, which lasted for several decades. The unification of the social life of the Ukrainian people incited by Russia reached its climax at that time. The validity of Magdeburg law in the towns was fully abolished, which was further confirmed by a royal decree of 1835. The traditional unity and sovereignty of the Ukrainian community underpinned with customary law and reflected in

the Lithuanian statute, which became an integral part of the Ukrainian national law in several centuries, was also destroyed. Later, starting from the second half of the 19th century, zemstvo institutions were founded as self-government bodies.

It was found that a separate and quite interesting page in the history of the Ukrainian local self-government development should be given to unfortunately vain endeavors to build a LSG system in the short-lived Ukrainian states, i.e. the Ukrainian People's Republic (UNR) and the West Ukrainian People's Republic (ZUNR). With the declaration of state independence of Ukraine in January 1918, local self-government was declared an integral part of the new democratic constitutional system. Likewise, after the formation of the ZUNR in November 1918, local self-government took a worthy place among its constitutional bodies. The draft Constitution of the Ukrainian People's Republic of 1918 was supposed to create a system of local self-government consisting of communities, volosts (districts) and lands, where the only direct local power was to belong to councils and administrations. Attempts to build a Ukrainian model of local self-government were made by all independent Ukrainian governments (General Secretariat, Hetmanate, Directorate), and therefore the time of its Ukrainization should be counted from this period.

Taking into account the fact that, starting the late 50's and early 60's of the 20th century, local councils were considered as bodies of such power, which turns into communist civil self-government, and therefore should act not only as bodies of state power, but also of local or public self-government [6, p. 37]. However, the centralism of the totalitarian state introduced by Russia into the Ukrainian Soviet Socialist Republic (the sixth Ukrainian state) led to the fact that the issues of local life were completely subordinated to the great-power interests of the USSR, which blocked any manifestations of local self-government with an expressive Ukrainian essence. Starting from 1991, attempts to Ukrainianize all spheres of public life, including local self-government, resumed in Ukraine. The numerous laws and by-laws implemented in this period, including the Constitution of Ukraine, enabled to an extent the national system of local self-government to develop and improve its own model purified from German, Polish, Romanian, Russian, Austrian or any other elements. Post-Soviet and post-totalitarian syndromes in the emerging civil society generate phenomena and processes that inhibit the development of the national system of local self-government [23, p. 334]. Realizing the importance

of the justification that the search for an effective model of local self-government is necessary but it should not last too long or lead to redundancy of various models that no constitution and laws will be able to bring to order, the search should be reduced to the most optimal and unified model, which would fully serve the interests of the entire people.

Long years of fruitful work enabled the Parliament (Verkhovna Rada) of Ukraine and the European Parliament to ratify the Association Agreement between the EU and Ukraine, which enabled to commence the temporary application of the relevant provisions of the Association Agreement. European integration is a civilizational choice of Ukraine, one of the key demands of the Revolution of Dignity. It takes a special place in the system of foreign policy priorities of Ukraine.

### Conclusions

Summarizing the above, it can be concluded that local self-government in our country has deep historical traditions. The problem of identifying the main stages of the local self-government development in Ukraine was raised by various researchers. In general, the periodization of the local self-government development proposed by I. Hrytsiak is considered acceptable. According to this periodization, the development of local self-government has four main stages: from the beginning to the pre-state era, followed by the time of the Eastern Slavs, further Europeanization and subsequent Russification, and up to attempts of Ukrainianization that started in the 20's of the 20th century and is still lasting. The origin and development of self-government in Ukraine was marked by many peculiarities determined both by the policy of the power circles of the state, which included Ukrainian lands, and by the domestic economic, social and cultural needs of the region. It is important to emphasize that different stages of the history of local self-government in Ukraine were characterized by alternating prosperity and decline, or a complete prohibition. It is appropriate to determine that, under the conditions of independence of Ukrainians and the buildup of a state of law with distributed power, the local self-government as an institution and process is observed to activate.

As an integral part of Europe, Ukraine is guided by the model of socio-economic development applicable in leading European countries. The process of European integration of Ukraine as the transformations taking place in the state is aimed at achieving political stability, development of democracy, observance of the rule of law, respect

for human rights and fundamental freedoms, gender equality and non-discrimination and the introduction of social standards of EU member states in Ukraine, as well as increasing the level of support by society for Ukraine's strategic goal of accessing the EU.

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**Kaliuzhna S. V.,**  
Doctor of Philosophy, specialty 081 'Law',  
Associate Professor at the Department  
of International Relations  
of the Law Faculty  
of Sumy National Agrarian University

**Petrova N. O.,**  
Doctor of Philosophy, specialty 081 'Law',  
Associate Professor at the Department  
of International Relations  
of the Law Faculty  
of Sumy National Agrarian University

**Bondar N. A.,**  
Doctor of Philosophy, Specialty 081 "Law",  
Associate Professor at the Chair of State and Law  
Disciplines and Ukrainian Studies,  
Sumy National Agrarian University