# MECHANISMS OF ADMINISTRATIVE AND TERRITORIAL REFORM DURING THE POWER DECENTRALIZATION PROCESS IN UKRAINE

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Abstract. The European integration processes in Ukraine contributed to the gradual reform and change of the administrative-territorial structure to comply with European standards. Article aims - determine the administrative and territorial structure reforming mechanisms during the power decentralization process in Ukraine. The study reveals the effectiveness of administrative-territorial reform mechanisms during the first decentralization period of 2014\_2019. During the decentralization process, and effective organizational and legal mechanism was created in Ukraine, which included the formation of the Ministry of Development of Communities and Territories of Ukraine and the functioning within it of the Task Force of reforms on decentralization, local self-government, and regional policy. Within the framework of the developed normative-legal field, the financial mechanism of formation of communities as the basic units of local government was determined, which ensured the development of the new institutional unit and its infrastructure. Within the framework organizational and legal mechanism, a methodology of formation and criteria for the ability of joint territorial communities to achieve the goals of socio-economic development was formed. In addition, the legal framework became the basis for the community cooperation mechanism formation. The work of the Task Force of reforms was strengthened by a team of experts an administrative reform, legal support, several projects of international organizations, which provided information and advisory support to local self-government bodies. An important element of the reform mechanism was information technology that promoted accountability and openness of the reform as part of the introduction of e-democracy in Ukraine.

Keywords: administrative and territorial structure, communities, joint territorial communities, Ukraine's decentralization reform, European integration.

## **1** Introduction

In 2014, after the approval of the Local Self-Government Reform Concept, Ukraine began transformational changes, the consequence of which was the approval of a new administrative and territorial structure on district and territorial community levels. The new structure was formed in the middle of 2020. The main reason for the change in the territorial structure is the inefficiency of the management of local socio-economic development. European integration processes in Ukraine contributed to the decentralization reform and the change of territorial structure, the ultimate goal of which is to ensure a high quality of life for the population, to solve economic, social, and environmental problems, streamlining the hierarchy of relations of authorities at different levels of government.

It should be noted that the implementation of administrative reform depends to a large extent on the presence of political freedom and the will to carry out the reform in the life of the country. The European integration processes in Ukraine have promoted gradual reform and change of administrative and territorial structure to comply with European standards. The last one assumes that territorial administrative units must have sufficient financial, economic, institutional, and personnel capacity to ensure, within the limits of certain powers, a high level of public services to the population and socio-economic development of the respective territories.

The article aims to define the mechanisms of administrative and territorial unit reform during the power decentralization process in Ukraine.

### 2 Literature Review

In the scientific literature, decentralization is viewed as the transfer of responsibility and authority to local and regional

governments in certain amounts (Kulesza. 2002) Decentralization has been a major concept in public administration for decades (Dubois & Fattore, 2009) Institutional restructuring under decentralization provides an administrative structure that is the basis of economic decentralization (Ting & Feng, 2019). Administrative restructuring in decentralized young democracies is an attempt to improve democracy from below, that is, at the local government level (Heo, 2018). The design and implementation of administrative-territorial reforms aim to strengthen local governance and improve the quality of local public service delivery (Toska & Bejko, 2018). Decentralization also promotes regional development from below by giving subnational governments more power in determining programs that are consistent with the public interest and local and regional development goals (Dudley, 2019; Talitha, Firman & Hudalah, 2020).

Countries implement decentralization mechanisms as a way to achieve democracy, regional development, and economic growth (Hutchcroft, 2001). Rondinelli (2017) has studied decentralization theory since the early 1970s and in developing countries during the 1950s and 1960s for many reasons (Kaiser, 2006; Falleti, 2005). In developing countries, many political leaders sought to build their new nations through a central government economic control mechanism. Dominant development theories of the 1950s and 1960s countries envisioned strong-centralized government control of the industrial and agricultural sectors, public services, and infrastructure (Daughters & Harper, 2007). in the 1990s. fiscal decentralization in developing countries that depended on the quality of national governance. Getting the needs and priorities of local communities and regions right contributed to the effectiveness of decentralization and its impact on infrastructure investment. In recent years (beginning in the 1980s), much attention has been paid to administrative reform, which was transformative and ensured that governments transitioned from authoritarian one-party states to relatively democratic ones (Rosenbaum, 2013). In particular, the reform involved decentralization and improvement of local government through efforts to create units of democratic basic governance with the support of international organizations and national aid agencies to encourage the strengthening of local government in countries in institutional transformation (Rosenbaum, 2013).

Thus, the problem of administrative and territorial reform in Ukraine is particularly relevant. As Loewen (2018) notes, the decentralization issue in the post-socialist countries of Central and Eastern Europe (CEE) disappeared from the research agenda after the democratic transition and accession to the EU. The processes and mechanisms of reforms under the decentralization conditions require research.

#### **3 Materials and Methods**

This study uses information materials from the Ministry of Communities and Territories Development of Ukraine (https://www.minregion.gov.ua) to analyze the mechanisms of administrative and territorial reform during the power decentralization process in Ukraine. The mechanisms were analyzed using the legislation posted on the website of the Verkhovna Rada of Ukraine, which refers to the reform implementation. The research was also based on various analytical platforms created with the assistance of international organizations in Ukraine to assess the reforms' progress: the website containing information about decentralization https://decentralization.gov.ua/about, the website of community capacity assessment https://tdukr. maps.arcgis.com/apps/, the web portal of the State budget for citizens. https://openbudget.gov.ua/analytics/financing?class=debt.

### 4 Results

According to the EU, one of the accession conditions is the administrative and territorial reforms in the candidate countries and the formation of administrative and territorial units per the nomenclature of statistical territorial units (NUTS), designed to provide certain territories with financial assistance from the EU. The EU development implies a constant increase in the role of regions, the elimination of imbalances between urban settlements of different subordination, and the regional policy reform.

In Ukraine, since 2014, decentralization has been taking place, which ensured the transfer of powers and finances from state authorities to local self-government. Normative principles of decentralization are based on the provisions of the European Charter of Local Self-Government. The legislative basis for a fundamental change in the system of power and its territorial basis at all levels began to take shape in 2014.

In April 2014, the Government approved the Concept of Local Self-Government and Territorial Organization of Power Reform. This was followed by the approval of the Plan of Measures for its implementation, which marked the beginning of the reform of the administrative-territorial structure. That is, the mechanism for implementing the reform involves the development of strategic guidelines for changing the structure of territories. It means that the mechanism includes organizational and legal principles, methods, and tools for implementing the changes, which are the starting points for ensuring the formation of new administrative-territorial units. The organizational-legal mechanism of the unit reform also provides for a change in legislation, which must be consistent with the national strategic plan for the development of territories.

Changing the legislation began with constitutional amendments to address the issue of creating executive bodies of regional and district councils, reorganizing local state administrations into supervisory bodies, gave a clear definition of an administrativeterritorial unit of the basic level – a community consisting of one or more settlements, defined by the law, borders that coincide with the boundaries of neighboring communities and are the territorial basis of local self-governance.

The organizational mechanism of the unit reform envisaged the involvement of domestic specialists, practitioners, scientists, and experts who developed drafts of constitutional amendments; legislative changes and ensured its transmission for broad public discussion..

Unfortunately, political circumstances did not allow the Verkhovna Rada of Ukraine to adopt the amendments to the Constitution on decentralization submitted by the President of Ukraine. Therefore, in 2014 the government began a reform within the framework of the current Constitution. During this time, the basic package of new legislation has already been formed and is in place, and priority legislative initiatives are being implemented, in particular (Ministries of Community and Territory Development of Ukraine, 2022):

- Laws on amendments to the Budget and Tax Codes of Ukraine. Thanks to these changes, financial decentralization; growth of local budgets took place (Law of Ukraine "On Amendments to the Tax Code of Ukraine and Some Legislative Acts of Ukraine on Tax Reform"; Law of Ukraine "On Amendments to the Budget Code of Ukraine on the Reform of Interbudgetary Relations").
- 2. The Law "On Voluntary Unification of Territorial Communities" made it possible to begin to form a soundbasic level of local self-government and ensure intermunicipal consolidation. The law became a legal mechanism for introducing the institution of headmen in OTGs, representing the interests of villagers in the community council.

- 3. The law "On Cooperation of Territorial Communities" provided a mechanism for solving common problems of communities through cooperation within the framework of certain strategic capacity and resources: recycling, garbage processing, infrastructure development, etc.
- 4. Law "On the Fundamentals of State Regional Policy" that provided the formation of a state support financial mechanism for regional development and the creation of local community infrastructure. This law, in particular, defines: 1) the mechanism of the state regional policy  $\Box$  a system of goals, measures, means, and coordinated actions of the central and local executive authorities, local governments, and their officials to ensure a high quality of life throughout the territory of Ukraine, taking into account natural, historical, environmental, economic, geographic, demographic and other characteristics of regions, their ethnic and cultural identity; 2) the regional development program - a set of mutual Moreover, the law determines the main principles of the state regional policy: 1) legality; 2) cooperation; 3) parity; 4) openness; 5) subsidiarity; 6) coordination; 7) unitarity; 8) historical continuity; 9) ethnocultural development; 10)sustainable development; 11) objectivity. State support for regional and community infrastructure development has increased 41.5 times during the reform: from UAH 0.5 billion in 2014 to UAH 20.75 billion in 2019. Through this support, more than 12 thousand projects were implemented in regions and communities in 2015 2019.
- Legislation to expand the powers of local governments and optimize the provision of administrative services, which allowed to delegate the authority to provide basic administrative services.
- The Law of Ukraine "On ratification of the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of the local self-government".
- Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Decentralization of Powers in the Field of Architectural and Construction Control and Improvement of Urban Planning Legislation".

The new legal framework greatly increased the motivation for inter-municipal consolidation in the country, creating the proper legal conditions and mechanisms for the formation of wealthy territorial communities of villages, settlements, and towns that join their efforts to solve pressing problems. A new model of financial support for local budgets, which have gained a certain autonomy and independence from the central budget, has also been created.

In 2019, all regions of Ukraine approved prospective plans for the formation of community territories, which meant the formation of a new model of administrative-territorial structure at the basic level. Consequently, the first stage of decentralization, which can be considered preparatory, was completed, as the procedures for creating new administrativeterritorial units, their powers, functions, and plans for territorial development according to the available resources and a certain potential for cooperation were determined based on the organizational and legal mechanism.

Draft prospective plans of regions were prepared by regional state administrations per the Law of Ukraine "On Voluntary Consolidation of Territorial Communities" and in compliance with the criteria of the Methodology of formation of established territorial communities and the relevant draft, orders were processed by the Ministry of Regional Development. For each project community, its capacity was assessed according to a group of criteria. Failure to meet the capacity criteria meant that the ATC would join another affluent community. Consequently, the legal and organizational mechanism of the reform stipulated the procedures of creating affluent communities capable of ensuring the territory's development under the prospective plan. In addition to assessing the capacity of future communities, the results of consultations held at the national and regional levels with the participation of representatives of the VRU Committee on the organization of state power, local government, regional development and urban development, people's deputies, local governments and their associations, regional state administrations, members of territorial communities and media.

On January 23, 2019, the Cabinet of Ministers of Ukraine initiated the transition to a new stage of the decentralization reform, providing for the consolidation of the successes achieved and the formation of wealthy communities, changes in the territorial structure at the district and community level, a clear separation of powers and control functions of different levels of government, as well as the development of forms of local democracy.

The functioning of communities in the new environment during 2019 allowed local authorities to accelerate the implementation of projects, make more effective decisions, and cooperate. In addition, in 2019, the Verkhovna Rada passed laws important for the development of communities. In particular, the land management system was improved, the activities of headmen and the formation of headman districts were streamlined, prerequisites for the cultural development of communities and regions were created, incentives for the construction of industrial parks in communities were created, and financial support for communities was increased. In particular, a record amount of UAH 132 billion is envisaged for infrastructure development of regions and communities in the State Budget 2022, the growth of personal income tax by 4%, which will also contribute to the growth of own revenues. In total, local budgets should receive UAH 630.8 billion in 2022.

The decentralized system of governance provides for an annual increase in the role of local self-governance bodies. During the second stage of the decentralization reform 2020\_2021, communities gain experience in independently managing a certain territory, effectively using resources, and making complex development decisions.

The organizational mechanism of the administrative-territorial reform included the creation of the Ministry of Development of Communities and Territories of Ukraine (Minregion), which is following the Regulation on its activities is the central body of executive power, "the main body in the system of central bodies of executive power, which ensures the formation and implementation of the state regional policy, state policy in the development of local self-governance, territorial organization of power and administrative-territorial structure...". (Ministry of Development of Communities and Territories of Ukraine, 2022c).

Among the activities of the Ministry of Regional Development is the administrative-territorial structure of Ukraine, the reforming of which is regulated by the regulatory support of the work of the Task Force of reforms on decentralization, local selfgovernment, and regional policy, namely:

- Order of the Ministry of Regional Development of Ukraine of 07.07.2015 № 158 "On amendments to the order of the Ministry of Regional Development of January 19, 2015, № 3".
- Regulation on the Task Force of reforms on decentralization, local government, and regional policy.
- Order of the Ministry of Regional Development of Ukraine dated January 19, 2015, № 3 "On the formation of the Expert Council on decentralization, local self-government, and regional policy".

The Task Force of reforms on decentralization, local selfgovernment, and regional policy (hereinafter, the Task Force of reforms) is a temporary advisory and consultative body of the Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine (hereinafter, Minregion), whose main tasks are:

- determination of directions and priorities of reforms, development of strategy and mechanisms of implementation of reforms;
- 2) promote the coordinated implementation of reforms, ensure monitoring of the effectiveness of their implementation
- coordinate positions on resource support for development and implementation of reforms
- determination of priorities in the regulatory and administrative support of the practical implementation of reforms
- 5) consideration of proposals for the planning of reforms.

The task force of the reform mechanism analyzes the state of affairs and causes of problematic issues of improvement of the system of local executive authorities, local self-government, and their territorial basis; studies proposals of central and local executive authorities, local self-government on the implementation of tasks to improve the system of local executive authorities, local self-government and their territorial basis; participates in the development of draft regulatory legal acts on issues within its competence; develops proposals and recommendations based on the results of its work.

The expert council includes experts who provide responsibility for the legislative support of the reform, administrative services, the content and course of decentralization, constitutional regulation, local elections, elders, oversight of the legality of LSG (local self-governments) decisions, study foreign experience, provide legal advice, study the problems of local budgets, study social services, local self-government, tax legislation, community cooperation, administrative-territorial structure, constitutional regulation, At the same time, the experts operate at the regional national level (in the provinces).

The first phase of decentralization 2014–2019 was the basis for the adoption of important regulations to reform the administrative-territorial structure (Ministry of Community and Territorial Development of Ukraine, 2022b):

- On July 17, 2020, the Verkhovna Rada of Ukraine adopted Resolution No. 807-IX "On the formation and liquidation of districts".
- 2. On June 12, 2020, the Cabinet of Ministers of Ukraine adopted 24 orders to determine administrative centers and approve territories of communities. On October 25, 2020, the first elections of local chairmen and deputies of local councils were held in 1420 of 1469 communities (in 19 communities of Donetsk and Luhansk oblasts, due to security issues, the first local elections were not held. Civil-military administrations are in place there).
- On November 17, 2020, the Verkhovna Rada of Ukraine adopted on second reading and as a whole the draft law "On Amendments to Certain Legislative Acts of Ukraine on Regulation of Certain Issues of Organization and Activity of Local Self-Government Bodies and District State Administrations" (№ 3651-e).

The new law will regulate the following processes:

- liquidation, merger, accession, division of a significant part of legal entities of public law (local councils, executive committees of councils, district councils, district state administrations);
- transfer and redistribution of the property of territorial communities; the property of territorial communities, which is managed by district councils;
- continuous financing of communal institutions and entities during their transfer and re-registration;
- ensuring the execution of territorial communities' budgets and the district's budgets to be reorganized and/or liquidated;
- general public succession, in particular, under the acts of local self-government bodies being reorganized.

To continue the reform, it is advisable to adopt several other important laws:

- On the fundamentals of the administrative and territorial structure of Ukraine, on which the administrative and territorial structure of Ukraine, the types of settlements, the system of administrative-territorial units, the powers of state authorities and local self-government bodies regarding the administrative-territorial structure, the order of formation, liquidation, establishment, and change of borders of administrative and territorial units and settlements, the maintenance of the State register of administrative and territorial units and localities
- On Service in Bodies of Local Self-Government (new version). It will ensure equal access to service in local governments, increase the prestige of service in LSG, motivate local employees to community and their development.
- 3. On state supervision over the legality of local government decisions.
- 4. On local referendum.
- 5. On updating laws on local self-governance, local state administrations, etc.

As a result of the Ukrainian structure reform, authority between the government levels should be divided according to the subsidiary principle. Community residents should be provided with mechanisms and tools to influence local authorities and participate in decision-making.

The mechanism of administrative-territorial reform also included the implementation of projects supported by international organizations: USAID project "Improvement of efficiency and accountability of local self-government" worth \$74 million; PROSTO project "Support of service accessibility in Ukraine" 2021□2023 worth of SEK 30 million; program "Decentralization Reform Support in Ukraine/U-LEAD with Europe; program for Ukraine on local empowerment, accountability, and development" worth €152.3 million; program "Decentralization (PLEDDG) program worth of CAD 19.5 million; US Peace Corps Community Development Project (Peace Corps) and other projects (Decentralization in Ukraine Official Website, 2022).

For example, the USAID project "Strengthening Local Government Performance and Accountability" should ensure the formation of a solid legal framework for local government development, implementation of sectoral and fiscal decentralization to ensure local government accountability, oversight, and effective citizen engagement by its implementing.

The PROSTO project "Supporting Accessibility of Services in Ukraine" at the local and national levels plans to improve service delivery to the population, especially supporting communities in the creation and modernization of ASCs (Administrative Service Centers), establishing a dialogue between residents and community leadership, introducing mechanisms of control and accountability of local authorities. Among the main areas of work are:

- Legislative support and advocacy assistance in improving legislation and policies to improve accessibility and quality of administrative services in communities.
- Expert support providing expert assistance to communities in creating or improving ASC, increasing the quantity and quality of services.
- Training programs providing training to community leaders, management, and staff of ASCs to provide services to community residents more effectively. In addition to professional aspects, including business ethics and gender equity.
- Public awareness and involvement 
  ☐ to strengthen the ability of communities to inform about ASC services and involve residents in the democratic processes of the community.

As a result of the  $2014 \square 2019$  reform, Ukraine has a new community-based administrative-territorial system of the basic level, including 1,470 communities: 410 urban, 433 rural, 627 suburbans, 119 district councils, and 119 district state administrations, October 7, 2021).

#### **5** Discussion

Reforming the spatial organization of power in Ukraine involves changing the administrative-territorial division in complex socioeconomic and political conditions (Udovychenko, Melnychuk, Gnatiuk & Ostapenko, 2017). The administrative-territorial reform envisages a transition from the centralized model of governance to ensure the sustainability of territorial communities and local self-government, to a transition to an effective system of territorial organization of power in Ukraine based on the principles of subsidiarity and financial self-sufficiency of local self-government (Siryk et al., 2021).

The European integration factor has an active influence on the course of the territorial reform in the candidate countries. Against this background, constitutional and administrative-territorial reforms took place in Poland at the end of the last century. Poland has a three-level system of administrative-territorial division, where the units of the basic level are gmyns, counties, and voivodeships, which is similar for Ukraine. Implementation of administrative-territorial reform in Poland required simultaneous change of administrative division, the introduction of self-government in counties and voivodeships, restructuring of almost 200 acting governmental administrations by consolidation and modification of responsibility principles, adoption of new laws, implementation of basic social reforms.

Kulesza (2002) examines the decentralization and change of Poland's political system since independence after 1989, noting the basic principles of the new public administration system: subsidiarity, decentralization, and the democratic mandate of any power. In 1990, the administrative-territorial unit of the country's gmyna had 15% of the state budget at its disposal. In 1998, the mechanisms of local self-government in Poland are supplemented by the restitution of the county and the creation of funds for the management of regional development at the voivodship level. Decentralization in Poland changed the mechanisms of the central government and administrations. During the reforming process, the administrative-territorial structure of the country, the role, and the position of the commune were significantly strengthened. Namely, the reforms started from the lowest level due to the excessive centralized central administration and government. Like Ukraine, communities are the new basic level units, which formation was the main task of the first stage of decentralization.

The commune was to become the basic territorial unit of government in Poland. It was unwise to introduce higher levels of self-government, as they could dominate the whole system. The main goal of the reform was to strengthen the commune, to accustom it to independence and the burden of responsibility, and to stimulate and integrate local communities. The key role in the implementation of the commune reform was played by the field delegates of the government commissioner, who were appointed in all 49 voivodships because it was impossible to contact the 2,500 communes, to give them advice, information, or consultation from Warsaw. Therefore, it was necessary to create new channels of management of the commune reform, which would be separated from the existing territorial administration, which had remained in the hands of the old apparatus since 1990. Delegates' offices were the first element of non-Communist territorial administration in Poland. These representatives were chosen from candidates submitted by local citizen committees. The selection criteria were clear and simple. They needed people with some knowledge of administrative matters who were involved in the reform process but not involved in local interest groups, which could limit their freedom of action. Those elected to these positions were independent, responsible, skilled in negotiation, and able to persuade others. Some officials from the old administration were also delegates, but they were in the minority. Most of those elected were from the former opposition.

The main task of the delegates was to prepare the commune for the establishment of self-government and the election of authorities and to take possession of state property. They also had to instruct the new commune in the first phase of its independent functioning and stimulate the self-governmentgovernment movement. It was necessary to make an inventory of public property transferred to the commune, reorganize the commune offices as well as public services and administrative institutions, resolve financial issues, and create new institutions.

At the same time, the communes, on their initiative, began the process of freeing the economy by privatizing many of the enterprises they owned at the time, as well as by selling, transferring, or renting land, buildings, and offices space. In this way, the self-government reform began important changes in the economy and became one of the main driving forces of economic transformation in Poland. As seen above, the key role in the preparation and implementation of the commune reform was played by the Office of the Government Commissioner for the Reform of Territorial Self-Government. In addition, there was created the National Assembly of Territorial Self-Government in Poland to represent the self-governing bodies at the national level, the Association of Polish Cities on the model of the pre-war organization, the Union of Polish Towns, the Union of Polish Capital Cities, and the Association of Rural Commune of the Republic of Poland. The aforementioned organizations started close cooperation and became representatives of self-government bodies to influence decisions made by the central government and parliament. In 1993, the Joint Commission of Government and Territorial Self-Government was established.

China's experience in administrative reform included the use of information technology to stimulate and accelerate decentralized public administration, increasing the government's ability to oversee key activities in the regions (Ma, Chung & Thorson, 2005). Ukraine also introduced some information and analytical platforms for various purposes: reporting on the progress of reforms, providing information on demographics, the financial performance of established communities, LSG activities, prospective development plans, etc.

#### **6** Conclusions

The study allows us to assert the effectiveness of administrative and territorial reform mechanisms during the first decentralization period in 2014 2019. The effectiveness was ensured by an effective organizational and legal mechanism creation that provided for the formation of the Ministry of Communities and Territories Development of Ukraine and the functioning within it, of the Task Force of reforms on decentralization, local self-government, and regional policy. The legal-organizational mechanism also ensured the financial mechanism definition for the communities' formation as the basic units of local government, which ensured the development of the new institutional unit and its infrastructure. In the framework of the organizational and legal mechanism, a methodology for the formation and criteria of the ability of united territorial communities to achieve the goals of socioeconomic development was formed. In addition, the legal framework became the basis for the formation of the community's cooperation mechanism. The work of the Task Force of reforms was strengthened by a team of experts on administrative reform, legal support, several projects of international organizations, which provided information and advisory support to local self-government bodies. An important element of the reform mechanism was information technology that promoted accountability and openness of the reform as part of the introducing e-democracy process in Ukraine.

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**Primary Paper Section:** A

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