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DECENTRALIZATION VS CENTRALIZATION: SCENARIOS OF REGIONAL DEVELOPMENT OF UKRAINE IN THE CONTEXT OF INTERNAL STABILITY ESTABLISHMENT

In Ukraine, the victory of President V. Zelensky and the “Servant of the People” party in the elections in 2019 was due to hopes to overcome the consequences of the regime of ex-president P. Poroshenko. 75% of voters hoped for peace, completion of the decentralization reform and ensuring its structural completeness.

The first year of the new team was difficult not only due to its internal looseness and lack of new strategic approaches but also due to the economic crisis and outbreak of the pandemic. The change of government and the crisis of power at the height of the epidemic are testing the strength of the system of relations between levels of government, which in 2019 entered the stage of the second phase of decentralization reform.

The process of consolidation of communities, as a result of the decentralization reform that began in 2014, was recognized as a good example of the process of system transformation in 2017. However, the monitoring data of EU organizations and the Council of Europe turned out to be less optimistic compared to 2017 opinion polls and 2018 government reports (AER, 2017: 102; EU-Ukraine, 2018; OECD, 2018: 29–30, 210–212, 214, 217, 234; CoE ECRI, 2018b). The inefficiency of the reform was also shown by the results of the 2019 elections.

Since 2014, the reform process in Ukraine has been under the competitive influence of two trends: “Modern” and “Postmodern.” “Postmodern” – based on the ideas of Jean Monnet – the ideas of “Europe of the regions,” the ideas of deconstructing the totality, denationalization, deregulation and decentralization, and the second – “Modern” – was manifested in concerns about national consolidation, unification and in a negative attitude to autonomy, self-government, which were assessed as strategically incorrect in the context of a hybrid war.

Therefore, *this study aims* to analyze scenarios for the development of regional policy in Ukraine in conditions of decentralization and centralization trends confrontation in the country. To achieve this goal, the *following tasks* were set and solved:

- to analyze approaches to structural completeness of decentralization reform and relevance of researches moving to the methodology of “researching the levels of the territorial and political system”;

- to realize the comparative analysis of the regional development and balance in the multilevel political system of Ukraine in the periods 1991–2014 and 2014–2019;
- to establish the structural completeness of the decentralization reform in Ukraine, which have to involve administrative-territorial, budgetary and political decentralization;
- to determine the effectiveness of devolution, delegation, deconcentration, deregulation;
- to consider scenarios of the possible development of decentralization reform.

Methods. The research is based on the application of the systematic, historical, comparative and structural-functional approach, combined with the methods of analysis, analogy, abstraction, generalization and method of individual expert assessment.

The novelty of the research. The author has identified the reduction of decentralization to administrative-territorial optimization; has shown the weakness of devolution, the resistance of the governments of Ukraine to political decentralization and the creation of systems of democratic representation of minorities.

Practical significance. Identification of the disadvantages of the reform creates the opportunity revision of mechanisms to ensure the balance of decentralization and centralization processes, with the aim of greater integration of regions and minorities in decision-making processes to ensure internal stability in Ukraine.

THEORETICAL AND METHODOLOGICAL ANALYSIS OF THE RESEARCH

Complexities of the decentralization reforms is inherent not only to Ukraine but also to other European countries (CEMR, 2013). Vekoslav Bratic, comparing reforms in European countries in 2008 doubted in the effectiveness of the reform, which was manifested in the optimization of administrative-territorial division and fiscal redistribution (Bratic, 2008).

Evaluation of the “effectiveness” of reform cannot be reduced only to an analysis of the optimization of administrative-territorial division, it must take into account the “multilevel nature” of decentralization, as was done in the studies of Agranoff (2004); Bennet (1997); Orenstein (2016). Such a reform involves: simplifying the access of residents to political participation and governance; ensuring representation of local and regional communities; creating the institutional basis for resolving conflicts between levels of territorial authorities.

In countries of the Romano-German Legal System, where the rejection of centralism is historically complicated, the theoretical foundation of decentralization was created by studies of the late XIX–XX centuries, in which: 1) models of public administration and the theory of sovereignty were considered {Korkunov (1893), Chicherin (1899), Yaschenko (1912)}; 2) the organization of multilevel governance in a situation of overlapping between the sovereignties was studied {Riker (1964), Eleiser (1995)}, which led to the formation of the concept “Perforated sovereignty” (Duchacek, 1990).

The formation of a multi-level system of governance and the exercise of power in post-Soviet countries have developed, in many respects, thanks to the experience

of other countries. Devolution in the UK, autonomization in Spain, regionalization in Italy, the crisis of federalism in Belgium – led to the appearance of terminology that explains the depth of decentralization processes in the works of researchers (Bogdanor, 1979; Burrouws, 1980; Smith, 1985). The first definitions of the concepts of “devolution,” “divestment,” “deregulation,” “deconcentration” were proposed by British scientists in a discussion about the reform of the quasi-unitary system – “British federalism” (Burgess, 1995), which is based on “The Separate Sovereignty doctrine” and recognition the scope of rights of local authorities on the principle of “everything that is not prohibited is allowed.” Decentralization and regionalism remain an extremely relevant topic of analysis, as evidenced by the studies of Rhodes (2003), De Witte and Vos (2017). The authors argue that the decentralization of national systems is a form of democratization and a way to support the innovative potential of the regions. The thesis of Rhodes (2003: 4) is relevant:

the term ‘unitary state’ is a black hole in the political science literature...It’s all too often treated as a residual category, used to compare unitary with federal states to highlight the characteristics of the latter. No unitary state is wholly homogeneous, and no unitary state is completely centralized. Decentralization is a common strategy for coping with diversity. There are types and degrees of decentralization: deconcentration, delegation, and devolution.

In the socio-cultural logic of Postmodern, which manifested itself in the second half of the twentieth century, decentralization and autonomization are considered as natural processes of territorial and political self-determination.

However, the ideas of national protectionism, which are inherent in the logic of “Westphalian Modern Order” or current Post-Postmodern (by Hegel’s “denial of denial” scheme), interpret decentralization and autonomization as dangerous processes for the state. The mutual denial of Postmodern and Post-Postmodern manifests itself as a confrontation between decentralization and centralization, which provides a balance of both tendencies in the territorial-political system, which is striving for stabilization.

Comparative studies of balance in multi-level management models are of constant scientific and practical interest. This is indicated by a comparison of models of “State-Establishment” and “State-Corporations” in the works of the 19th century (Chicherin, 1899), and a comparison of models of “Nation-States” and “State-Nation” in the 21st century (Stepan, Linz, 2011). The studies provide an analysis of separated sovereignty, multi-level governance demonstrates overcoming “methodological nationalism” and developing a “methodology for studying the levels of the territorial-political system.” A new methodology is presented in studies (Keating, 2005; Banch, Flinders, 2005; Jeffery, Wincott, 2010).

The research experience allows us to state that the analysis of the balance of inter-level relations in a decentralized territorial-political system can be carried out only using a systematic approach. Reliance on the concept of the “balance of political relations” in a multilevel system (Turovsky, 2006) allows us to study not only the processes of macroregional deconstruction in the “centre-regions” system but also the intra-regional processes in the “regional centre-municipal communities” system.

With a systematic approach to decentralization, the state is considered as a territorial-political system, where the centre and regions are dialectically connected, and the

balance of relations depends on the mutual recognition of the political subjectivity of the participants, on the organization of representation systems. Such a system is based on the principle of “everything that is not prohibited is permitted.” Recognition of a territorial subject as a political subject ensures the effect of system integration at the national level and the flexibility of the mechanism for resolving regional conflicts. The elimination of the problem of political recognition is a way to solve inter-level conflicts, minimizes the factor of manipulating emotions, leading to a regional confrontation. The concept of the balance of political relations in the state allows us to determine the ratio of decentralization and centralization, the quality of “vertical” and “horizontal” relations between territorial-political entities. A systematic approach allows you to analyze the decentralization aspects: 1) the relationship between the administrative centre and the regions; 2) the system of local government; 3) economic inequality of regions and territorial communities; 4) the process of self-organization and citizen participation; 5) recognition and representation of territorial and non-territorial communities.

Based on the methodology of system analysis and the concept of balance of relations, using a comparative and structural-functional method to analyze the territorial-political system as a multi-level, we undertook this study. The sections of the study are devoted to the elements of decentralization (administrative-territorial, budgetary, political) and the analysis of decentralization development scenarios in the new political cycle. The need to explain the changes in the relations of the territorial levels of the political system necessitated the use of historical and comparative methods of research, which were used in the first section in the analysis of administrative-territorial development and reform in Ukraine during the periods 1991–2014 and 2014–2019.

1. ADMINISTRATIVE-TERRITORIAL DEVELOPMENT AND REFORM IN THE PERIODS OF 1991–2014 AND 2014–2019

1.1. Balance problems in the territorial-political system of Ukraine in 1991–2014: the basis for reform

The task of reforming the administrative-territorial system has been discussed in Ukraine since 1991. The 1996 Constitution of Ukraine established for a “complex unitary” order. The first level of administrative division was formed by 27 regions, including 24 “regions,” the Autonomous Republic of Crimea and 2 cities with special status: Kyiv, as the capital, and Sevastopol, as the city where the naval bases of Ukraine and Russia were located. The second level consisted of 490 districts. The third level consisted of 29800 rural, township and city administrative-territorial units, united in 11500 communities – “communities.” The organization of the territorial-political system, as well as the systems of administrative-territorial administration, drawn up in the 1996 Constitution, have been largely preserved today. Although the problems of separation of powers between the centre and the regions have always been acute.

Regional groups tried to create leverage over government decisions:

- 1) in 1991–1995, the issue of the status of the Autonomous Republic of Crimea became aggravated: self-declaration of state independence of Crimea, its abolition and settlement of the conflict;
- 2) in 1995, a crisis in relations between the President and the Parliament of the country led to the signing of the Constitutional Treaty and the design of the presidential-parliamentary hybrid system, which was enshrined in the 1996 Constitution. Administrative centralism has become a feature of the system;
- 3) in 2003, the proposal of President L. Kuchma to create bicameralism – the creation of the Chamber of Representatives, was perceived as an attempt to get rid of the direct influence of regional lobbies and their “dumping” into the lower Chamber. The confrontation resulted in Maidan 2004, the result was a transition to a parliamentary-presidential republic and the announcement of reform of local self-government in connection with imbalances in regional development (Karpinsky, 2005; Parliament, 2018);
- 4) in 2010, the presidential campaign led to a redistribution of the influence of regional groups, to the victory of the “Donetsk family” and the restoration of the presidential-parliamentary republic;
- 5) in 2014, as a result of the political crisis (Maidan-2014), the parliamentary-presidential form of government was restored, which was accompanied by changes in administrative management, the announcement of reforms with the aim of democratization, decentralization, de-oligarchization of the system.

A breakthrough in the development of Ukrainian statehood, the adoption of the 1996 Constitution, which was recognized as the best in terms of the scope of the rights of residents and citizens established in it, were offset by the lack of real democratic procedures. Thus, the local government without the means of self-government in the scientific literature is defined as “the syndrome of helpless pluralism” (Carothers, 2002).

Stagnation and regional fragmentation is the result of the use of the national state’s resource by competing for regional elites for self-enrichment, which is accompanied by degeneration of state policy into a “constitutional redistribution of corruption flows” and a reduction in the role of Presidents to the role of “brokers” among regional groups.

1.2. Administrative-territorial reform 2014–2019: goals and results

After signing “The Ukraine–European Union Association Agreement” in 2014, the logic of decentralization reform was enshrined in the “State Strategy for Regional Development by 2020.” It was planned to fortification the deconcentration of management; reduction of the functions of local state administrations to supervision and control as ensuring deregulation; replacement of regional state administrations with prefectures; introduction of competition for heads of local state administrations appointed by the President.

Indeed, the new Law “On Public Service” in 2016 provided for the competitive selection of candidates for the post of head of administration. But in 2018, this provi-

sion was repealed and the heads of administrations are still appointed by the President without competition. The deconcentration process was stopped, which was noted by the Parliamentary Committee of the Association between Ukraine and the EU (EU-Ukraine, 2018).

The reform of the territorial organization of power also involved the fortification of delegation – instructions to local authorities of certain powers of the central government, and devolution – the transfer of power to the lower levels of territorial division. It was supposed to liquidate the district state administrations, create new united territorial communities (UTC), which would “grow” into the borders of the previous regions and assume the functions of district management. The readiness for devolution was explained by the fact that 95% of communities are subsidized and that 5% of state ownership makes the goal of decentralization obvious – delegation of power to local communities (Ministry, 2015, 2016).

Vertical delegation is the foundation of decentralization reform. For example, in Poland in 1999, reform began with the transfer of expenditure powers from central to local governments.

In Ukraine, the separation of powers on their own and delegated has existed since 1997, but in the Law “On Local Self-Government in Ukraine” the difference between these powers is ambiguous. The lack of criteria for the implementation of delegated powers and the established responsibility for violation of their implementation retains the opportunity for political and economic manipulation.

The Report of the Assembly of European Regions (2017) noted that “the administrative structure of Ukraine remains highly centralized” (AER, 2017: 102). The ineffective distribution of state responsibility at different levels and ambiguous political and administrative relations between levels of government are recognized as causes of conflicts of interest at the regional and subregional levels (AER, 2017: 103).

The devolution of the system implied the de-hierarchization of the state with a unitary structure, the recognition of power structures of subnational levels by entities that ensure political and budgetary balance. However, instead of the recognition formula “everything is permitted that is not prohibited”, the formula “allowed what is provided” was still used. Management in the traditions of the political, administrative and budgetary “model of nesting dolls” has been preserved (OECD, 2018: 213).

The process of administrative and territorial optimization turned out to be a priority.

The government of A. Yatsenyuk in the program “Five Steps of Reform” in 2014 set a goal to enlarge the local subjects of local self-government – communities, preserving three levels of division: community – district – region. The number of districts was going to be reduced from 490 (including Crimea, Donetsk and Lugansk regions) to 120–150 according to the principle: “one district – one territorial community (UTC).” As of January 10, 2020, out of 490 districts, UTC covered 100% of the territory in only 26 districts, from 50–100% of territories in 164 districts, and not a single UTC was created in 75 districts (Ministry, 2020).

The optimization of the administrative-territorial structure has become a European trend – it was carried out by 43 members of the Council of Europe. For example, in Greece 54 prefectures were reduced to 13 regions, in Slovakia 40 regions to 8, in Poland 49 regions to 16. However, regional consolidation did not always involve the

consolidation of municipalities. Whereas in Greece, the number of municipalities decreased by 34%, and in Hungary by 49%, in Poland, it was only 3.9% and in Slovakia by 0.4% (Bratic, 2008: 145–147). In Ukraine, a reduction in the number of communities is planned by 87–84.4%.

Even though the reform lasts for the sixth year, only 43% of the total number of planned UTCs are combined (Ministry, 2020). Often, the created UTC are two to six times higher than the optimal number – 5 thousand people. This makes it difficult for citizens to access the decision centre.

The unpopularity of the reform in the regions can be explained by a) the uncertainty of the number of community funds that has become part of the UTC; b) the liquidation of local representative structures and their replacement with an individualized representation – the creation the institution of “Elder”; c) unwillingness to replace the permanent local government with self-organization bodies; e) ignoring ethno-cultural factors in the processes of creating UTC; f) by drawing an analogy between the processes of consolidation of communities and the creation of Soviet collective farms.

2. BUDGETARY DECENTRALIZATION IN UKRAINE

Budget decentralization is enshrined in the Constitution of 1996, in the Law “On Local Self-Government” in 1997, in tax and budget codes. Municipal budgets are structurally separated from the state budget. Taxes and fees are divided into state and local. But the basic rule remains: “one tax – three budgets.” That is, the principles of budgetary decentralization have not been implemented.

A unified budget process involves the transfer of funds from the state to the local budget and, conversely, in the case of delegation of powers. The budget process is supported by the state and provides a system of interregional alignment. Subnational level tax revenues are generated by “split taxes” (on individuals’ income, corporate profits, excise taxes, environmental taxes, etc.). At the state level, rates are set for those parts of taxes and fees that are mobilized into the revenue part of budgets.

Since 2014, tax incentives for UTC have been introduced to encourage unification. The share of local taxes and fees in local budget revenues increased from 0.7% in 2014 to 27.5% in 2019 (Ministry, 2020). This did not provide budgetary self-sufficiency for local actors, as confirmed by the OECD data: sub-national governments control only 30% of their resources, while in the EU-28 they account for 40% and the OECD countries for 44% (OECD, 2018: 29).

The main source of income at the subnational level remains the personal income tax (54% in 2016), but the way to collect tax “at source” (where people work or where the employer is registered) creates a gap between the place where services are provided and a place that receives tax revenue (OECD, 2018: 30). As a result, in big cities (Odesa, Kharkiv, Dnipro, Zaporizhzhia, Poltava) 45% of budget revenues are generated from tax revenues, and 50% in Kyiv.

Obvious fiscal asymmetry of subnational levels. The regional level is weak, the intermediate level – i.e. rayon and cities of region significance – represents 68% subnational spending, 78% if Kyiv city is included, and the local level (cities of rayon impor-

tance, towns, villages and rural settlements) represents only 8% of the total (OECD, 2018: 214).

Transfers from the center – this is 60% of the resources of the subnational level – are the main source in the regional level financing system. This is more than in the countries of OECD (38%) and EU-28 (45%). In rural areas, transfers from the center account for more than 75% of their budget revenues.

The OECD Monitoring Commission indicated that “the main fiscal indicators on paper give the impression that the country is relatively decentralized” (OECD, 2018: 211), and this is externally demonstrated by the IMF data on the percentage of revenues and expenditures of local governments in the state budgets of European countries and Ukraine. At the same time, the situation in Ukraine will look positive, as the table shows (IMF, 2018).

Table 1

Shares of Revenue and Expenditure Local and Regional Self-government in GDP, %

	Revenue, 2008	Expenditure, 2008	Revenue, 2016	Expenditure, 2016
<i>Eastern European countries</i>				
Belarus	18.31	17.15	16.35	16.20
Poland	13.89	14.09	13.20	12.93
Ukraine	12.96	13.12	15.30	14.65
Hungary	11.27	11.20	6.3	6.01
Romania	8.43	9.44	9.21	9.05
RF	7.29	7.37	7.95	7.94
Bulgaria	6.71	7.08	7.02	6.95
Slovakia	6.06	6.13	7.13	6.56
<i>West European Countries</i>				
Sweden	23.19	23.29	24.36	24.92
Finland	19.50	19.89	22.01	22.43
Norway	11.84	12.87	16.37	16.78
France	10.71	11.21	11.29	11.15
United Kingdom	11.95	12.26	9.54	9.96
Germany	7.53	7.28	8.06	7.91

Source: Based on IMF data (IMF: 2018).

But the real situation is masked by the fact that: 1) regional and district accounts are not completely “decentralized” and budget indicators overestimate the share of the subnational level, whose authorities act as “payment agents of the central authorities”; 2) most municipal budgets are not individualized in the system of national settlements and they are managed according to the “trickle-down model” or “nested doll model” (OECD, 2018: 210, 213).

The result of decentralization was the redistribution of responsibilities for spending between subnational levels (transfer from the district level to the level of cities and UTC), and not the redistribution of revenue between the centre (ministerial) and subnational levels” (OECD, 2018: 217). As a result, progress in decentralization is negligible, “Ukraine remains a centralized state” (OECD, 2018; 31, 212).

The need to “alignment” the economic development of regions has been relevant since 2004. If in 1996 the maximum and minimum indicators of GDP per capita were

two times different, in 2001 – 6 times, then in 2018 – 24.4 times (Ukrstat, 2019). Kyiv provides 24% of the country's GDP, and between 2004 and 2014, Kyiv and the Kyiv region accounted for 60% of the country's GDP growth (OECD, 2018: 20). The maximum indicator (238.6 thousand UAH – in Kyiv) is 3.4 times higher than the average throughout Ukraine (70.2 thousand UAH), and the minimum indicator (13.9 thousand UAH – in Lugansk) is less than one the fifth (19.8%) of the average per capita indicator in Ukraine (ZN.UA website, 2019). This asymmetry is higher than the interregional difference in the EU countries, where after the accession of 10 countries, the average per capita GDP in the poorest region was less than 28% of the EU per capita GDP (EC, 2009: 4).

Regional asymmetry there is in the EU also. 43% of production in the EU falls on only 14% of the territory (EC, 2009: 4). Since 2009, European policy has been aimed at overcoming asymmetries through investment support for lagging regions. In Ukraine, the volume of public investment in public infrastructure in 2016 amounted to 2.2% of GDP, which is three times less than the volume of investments in countries with emerging markets (6–7%) (OECD, 2018: 218).

The policy of overcoming asymmetries is understood differently. In 2009, the government of Y. Tymoshenko introduced a model of tax redistribution, which contributed to the shadow economy. The opposition “Party of Regions” supported the model of “free zones” and, referring to the experience of Italy, used the concept of “budget federalism” in an election campaign in 2009–2010 (Parliamentary, 2012). Since 2014 the government is trying to replace the vertical system of “alignment” with the horizontal system of “shared responsibility”. Inter-municipal cooperation remains weak due to the low financial autonomy of the communities: it was used only by 1,188 communities that signed 530 contracts (Ministry, 2020).

Government is trying to stimulate the development of a “shared responsibility” system through “divestment,” which involves the formation of “participation budgets.” Such budgets were introduced in Ukraine in 45 cities in 2017. But in comparison with the cities of Europe, the financial weakness of Ukrainian cities is obvious. If budgets for the participation of European cities are estimated in tens of millions of dollars, in Ukraine they range from 9 to 38 thousand dollars (GURT, 2018). The reason for the inefficiency of divestment is not only economic weakness, but also a crisis of confidence since the business structures that are close to the administrations are beneficiaries of the distribution of such budgets.

The balance of budget systems in Ukraine remains unrealized. The processes of deregulation and devolution cannot be effective without the budgetary self-sufficiency of local communities. For the same reason, regional diversity as a base of “smart specialization,” “transnational regional cooperation” called for by the Organization for Economic Co-operation and Development, the European Union, the Assembly of European Regions, the Council of European Municipalities and Regions – cannot be achieved too (EC, 2010; OECD, 2012, 2013; CEMR, 2013; AER, 2017; OECD, 2018). The report, approved by the OECD Committee on Ukraine's implementation of recommendations in the policy of multilevel public administration and decentralization, emphasized that, despite progress in the development of decentralization measures, decentralization itself remains unrealized (OECD, 2018: 29).

3. DEVOLUTION AND THE SYSTEM OF REPRESENTATION

Devolution ensures the de-hierarchization of the system, political decentralization, an increase in the powers of subnational authorities, an increase in the representation of subnational levels at the national level, and an increase in the institutional capacity of citizens to participate in decision-making. Devolution is determined by the establishment of the principle “all that is not forbidden is permitted,” a characteristic of the Anglo-Saxon legal tradition.

The principle “allowed what is provided for” is established in the Law “On Local Self-Government in Ukraine” 1997, and the ambiguity in the separation and financing of own and delegated powers blocks devolution. Besides, administrative-territorial optimization leads to a reduction in the number of local governments. Those, the local level representation system is shrinking. This is confirmed by the data of the Central Election Commission (Table 2) (CEC, 2020).

Table 2

Number of Local Councils and Number of Deputies of Local Councils, 2015–2019

The <i>total number of local councils</i> whose composition is elected in the relevant local elections (in 2015)	10,562
– of them the number of local councils liquidated (as of March 21, 2020) (in connection with the unification of territorial communities)	3,478
Total <i>number of deputies in local councils</i> , whose composition is elected at the respective local elections (in 2015)	158,399
– of them in liquidated (as of March 21, 2020) local councils (in connection with the union of territorial communities)	47,884
The <i>total number of elected deputies of local councils</i> whose powers have not been terminated	108,948

Source: CEC, 2020.

Reducing the number of local councils should help pool budgetary funds to finance local tasks, create a system of shared responsibility, but in practice, this: a) increases the distance between the authority and the voter, as it increases the load on the deputies of a local council for the representation of a larger number of residents; b) reinforces the tendency for duplication of parliamentary representation in representative structures of a subnational level in connection with a decrease in the use of the majority system in favour of a proportional one, in the context of an increase in UTC; c) contributes to the strengthening of party groups in local councils, which received the right by two-thirds of the votes to terminate the powers of the head of the community elected by the population; c) leads to the imitation of the individualized representation of communities that are affiliated with the UTC by the “Elders” institution, which is functionally limited by coordination, information, and supervision.

Such a representation system provides political control and oversight of the activities of local councils from the centre. And such a vertical is supported “from below” as a mechanism of “communication” with the centre. During the presidency of P. Poroshenko, the Party Block P. Poroshenko “Solidarity” in 2014 formed not only the largest faction in parliament (131 out of 450 deputies) but also led the way among

parties in subnational elections in 2015, although 62.76% of deputies who passed on councils as “self-nominated” showed a low level of support from the population (CEC, 2015).

The next elections to local councils should be held in the last week of October 2020, although against the backdrop of the victory of the pro-presidential party “Servant of the People” during the parliamentary elections of 2019 (254 out of 450 seats), “political expediency” of holding early local elections was discussed. This demonstrated the willingness of the new team to maintain “political centralism.”

The Ukrainian government is constantly fluctuating between the need to strengthen decentralization or centralization, as indicated by the Assembly of European Regions (AER, 2017) and this is confirmed by the organization of a representative system at the subnational level; lack of organization of a system of representation of ethnic and national minorities, although such an organization is a pan-European practice of ensuring national stability.

The absence of a special integration policy for national minorities in Ukraine is indicated by the Report of the Monitoring Committee of the application of the “Framework Convention for the Protection of the Rights of National Minorities” 2017 (CoE ECRI, 2017). This criticism is supported by the Advisory Committee on the Framework Convention for the Protection of National Minorities, which called on the authorities to ensure a mechanism for the participation of persons belonging to national minorities and to prevent the use of gerrymandering technologies (CoE ACFC, 2018a: 52).

In response, in the “Comments of the Government of Ukraine on the Fourth Opinion of the Advisory Committee on the Implementation of the Framework Convention for the Protection of National Minorities by Ukraine” in 2018 stated that the Ministry of Culture of Ukraine is preparing a new Law “On National Minorities in Ukraine” and is drafting Laws “On the Concept of Ethnic policies of Ukraine,” “On the status of the Crimean Tatar people” and “On the indigenous peoples of Ukraine” (CoE ACFC, 2018b: 52). By the beginning of 2020, these normative acts have not been adopted.

At the same time, in 2019, a new Law was adopted “On ensuring the functioning of the Ukrainian language as the state language” (Parliament, 2019a), which limited the possibility of using languages of ethnic and national minorities in public spheres, reinforcing the rejection of the concept of “plurilingualism,” which acted as a basis Law “On the Basics of State Language Policy” (Parliament, 2012a). This has become the subject of bilateral dialogues and agreements with countries whose minorities live compactly in Ukraine, for example, Hungary, Bulgaria, Romania. The new language Law will be discussed more than once. Especially if you pay attention to the EU requirement expressed in the “Joint statement after the 20th EU-Ukrainian Summit” that Ukraine should ensure respect for the rights of persons belonging to national minorities by adopting legislative guarantees until 2023 and implement the recommendations of the Venice Commission No. 902/2017 (CoE ECRI, 2018b).

The mechanism of direct participation of citizens in the adoption and implementation of decisions is important to ensure devolution. In Ukraine, the development of all known forms of direct democracy is guaranteed by law, but in practice, a number of them are not implemented. For example, there are no laws providing for a referendum.

Other forms of direct democracy – meetings, hearings, local initiatives, recall of a local council deputy – are governed by community charters. But the charters are either not adopted or not used. Most forms of direct democracy remain outside practice.

4. SCENARIOS OF REGIONAL DEVELOPMENT AND DECENTRALIZATION

The first scenario, let's call it "Euro-optimistic," is determined by the recognition of the appropriateness of the logic of European integration, as the integration of economically and politically self-sufficient regions. The right to self-determination of regions is based on the recommendations of the Venice Commission, which are given in the Report "Self-determination and Secession in Constitutional Law," which states that "self-determination should be understood as 'internal' – within state borders, and not as 'external' – through separation" (CoE VC, 1999), as well as the PACE Resolution, for example, Resolution No. 1832 (CoE PA, 2011), which states that self-determination should focus on protecting minority rights, as provided for in the Council of Europe "Framework Convention for the Protection of National Minorities" (CoE, 1995) and Assembly Resolution 1334 "On the Positive Experience of the Autonomous Regions as a Source of Inspiration for Conflict Resolution in Europe" (CoE PA, 2003).

The logic of development in this scenario will be also determined by the orientation towards the recommendations of the "Assembly of European Regions," the "Council of European Municipalities and Regions," and the "Congress of Local and Regional Authorities of the Council of Europe," which focus on the deepening of decentralization, regionalization and autonomization. It is based on the recognition of the value of the provisions of the "Declaration of Regionalism in Europe" 1996, in which the Assembly of European Regions noted that "the region is the expression of a distinct political identity, which may take very different political forms, reflecting the democratic will of each region to adopt the form of political organization it deems preferable. The region shall resource and staff its own administration and adopt insignia for its representation" (part 4 of article 1), that "the region shall have a full legal status" (article 2) and that in order to resolve disputes with the state on the separation of powers, regions must have legal personality, including international ... in order to be able to develop inter-regional cooperation on the basis of transnational law (articles 7, 8, 10) (AER, 1996). In addition, in the AER Statute, updated in 2018, the organization aims are to: promote the application of the principles of subsidiarity and complementarity between local, regional, national and European levels; supporting efforts and creating networks of regional parliaments and councils; supporting the activities of European interregional associations (AER, 2018).

In our opinion, the implementation of the Euro-optimistic scenario involves the practical application of the decentralization index, the determination methodology of which was substantiated by AER. The index consists of sub-indices of administrative, functional, fiscal and political decentralization, and as leaders of the decentralization process were determined Switzerland, Germany, Belgium, Spain, and among the post-Soviet countries – Poland, which has achieved success in political decentralization

(AER, 2009). Poland created a bicameral parliament; excluded the right of the national government to appoint and dismiss regional officials; established a vertical distribution of power at the regional level, and the regions have their own legislative, executive, and judicial bodies (Koch, 2019: 51). The experience of these countries demonstrates different models for the implementation of multi-level governance and the practice of effective “separation”/“perforation” of sovereignty.

When developing the “Euro-optimistic scenario,” it is important to take into account the practices of countries (Croatia, Romania, Poland), which, according to the European Commission against Racism and Intolerance at the Council of Europe, are relatively successfully implementing ethnopolitical representation mechanisms (Koch, 2019: 190). Although the Commission in these countries also recommends strengthening guarantees of ethnopolitical representation and regional development by:

- 1) liquidation or lowering of the electoral threshold in local elections for parties of national minorities. Such a recommendation was made to Romania (CoE ECRI, 2014: 9) and Poland, in which this threshold is cancelled for “national minorities,” but not for “ethnic” (CoE ECRI, 2010: 10);
- 2) the introduction of quotas for representatives of national minorities in the staffing system of state and municipal services. Such recommendation was made to Croatia: to implement the Plan to establish a 5.5% quota for national minorities (in particular, Serbs) (CoE ECRI, 2012: 9; CoE ECRI, 2018a: 23);
- 3) guaranteeing the functioning of “Regional or Minority Languages.” Such a recommendation was made to Poland, which legally guaranteed the functioning of the “additional” minority languages, which compactly (more than 20%) live in municipalities, but whose authorities, in the opinion of the Commission, “should revisit the scope of application of the 2005 Act on National and Ethnic Minorities and the Regional Language and to extend the list of protected regional languages” (CoE ECRI, 2010: 27).

The “Euro-optimistic scenario” is based on the recognition of regional and local diversity as a condition for the growth of innovative opportunities (AER, 2017: 10). With this development, it is supposed to deepen decentralization, constitutional consolidation of guarantees of rights to regional diversity and autonomy in local development issues; ensuring political representation of ethnic and national minorities; guarantees of linguistic rights of minorities in the regions of residence; eliminating the possibility of manipulating ethnic, linguistic or religious issues; constitutional consolidation of the principle “everything that is not prohibited is permitted;” development of independent statutory activities of local communities. It is important that this scenario makes it possible to implement the “Steinmeier Formula” in resolving the crisis in Eastern Ukraine.

However, the initiative was taken by President V. Zelensky on December 13, 2019, to adopt as an “urgent” Law “On Amending the Constitution (on decentralization of power),” where in article 92 in paragraph 16 was been pointed that “the status of administrative-territorial units is determined exclusively by laws,” – was withdrawn after a consultation in the “Servant of the People” fraction (Parliament, 2019b). Many of deputies have accused the President of wanting to “push through” the possibility of establishing “special statuses” for the territories by voting with 226 votes, which the party “Servant of the People” possesses.

We will call the second scenario “inertial” because in this case the “drift” of decentralization reforms will be determined by the rivalry of the two trends: Modern, with its unification and centralization, and Post-Modern, which is formed by the idea of a multi-level structure and decentralization. Imitation of reforms to maintain interaction with financial organizations will remain the norm when blocking the processes of decentralization and democratization.

So, by 2020, according to the plans of the Ukrainian government, 1200 UTC should be created (76% of the country’s territory), the rest will join in the hope of solidary development in the conditions of insufficient independent budgetary funds or will be forced to be “mothballed,” holding help from external subjects (diasporas, nation-states, neighbouring cross-border entities).

This option will strengthen fragmentation and potential conflict at the local and regional level. It is here that conflicts of interests along the lines of “rich-poor” and “friends or foes” will be concentrated, the resolution of which will depend on investors, agreements and foreign policy processes.

This scenario fits the situation with the conflict in the East of Ukraine in connection with the polarization of the expert community on the recognition and implementation of the Minsk agreements, in terms of fulfilling their 11 paragraphs on “Carrying out constitutional reform in Ukraine with a new constitution entering into force by the end of 2015 providing for decentralization as a key element (including a reference to the specificities of certain areas in the Donetsk and Luhansk regions, agreed with the representatives of these areas), as well as adopting permanent legislation on the special status of certain areas of the Donetsk and Luhansk regions in line with measures as set out in the footnote until the end of 2015” (Full, 2015). Inertia will be determined by the situation in the EU, the relevance of the concept of “Europe of the Regions,” and the crisis of solidarity. A strengthening of this trend is also mentioned in the AER Report (AER, 2017: 8).

A third scenario is possible – “blocking.” It boils down to the possible recognition in 2020 (after elections to local councils) of the need to strengthen state supervision and regulation, which is inevitable in the emergency situation introduced in connection with the COVID-19 pandemic. Then, the criticized draft law of President V. Zelensky “On Amending the Constitution (on decentralization of power)” may receive support in part of the strengthening the authority of Prefects (Parliament, 2019b).

In the case of protests, strengthened due to the government’s plan to abandon the moratorium on the sale of land, the enlargement of territorial communities will be the only result of reforms. Further development will be possible only along the path of even greater optimization: combining UTC into larger, self-sufficient entities, whose relationship with the centre may turn out to be critical. The goal will be to maintain territorial national unity, which is fraught with possible domestic political changes associated with the development of authoritarianism and militarism.

From the 90s of the twentieth century until today, Ukraine, as a complex unitary state entity, has declared the need to reform the structure inherited from the centralized Soviet republic. Decentralization was defined as the logical basis for the democ-

ratization of the country with the adoption of the “Constitution of Ukraine” in 1996, the Law “On Local Self-Government” and the ratification of the “European Charter on Local Self-Government” in 1997. But until 2014, the reform, the implementation of which was widely discussed in the processes of constitutional reform of 2004 and 2010, turned out to be secondary. The transition from the presidential-parliamentary to the parliamentary-presidential hybrid form of government in 2004 and vice versa – in 2010, concentrated all the efforts of the reformers. The competition of regional elites for central authority determined the fragmentation of the country and weakened democratic movements. The third constitutional transition to a parliamentary-presidential form of government in 2014 provoked separatist sentiments in the regions of Ukraine.

Against the backdrop of the economic and political crisis, the struggle for territorial integrity was based, on the one hand, on the concept of ethnonational consolidation and a centralized militarized rebuff to regionalism, and, on the other hand, on the thesis of decentralization and democratization, which were defined as a condition for European integration.

By 2020, administrative and territorial optimization and consolidation of communities have become the main results of decentralization. Such decentralization processes as devolution, delegation, deregulation remained limited and controversial. The division of powers between the state and communities is regulated by the old law. The budgetary reform did not lead to the budget independence of the communities and did not ensure the balance of inter-budgetary relations; it remains focused on the system of “tax splitting” and the budgetary “model of nesting dolls.” Attempts to diversify are weakened not only by the poverty of the communities but also by a low level of trust in the structures that distribute funds.

The attitude to the processes of decentralization and centralization on the part of political elites is determined by the ambivalence of their views. The nature of this duality lies in the desire to follow the experience and requirements of the European Union and in an effort to holding significant power on subnational levels. The need to balance between centralism and decentralization reveals the “fatigue” of a system that seeks stabilization. Stabilization can manifest itself as the implementation of one of three scenarios: “Euro-optimistic,” “inertial,” and “blocking.” If “Euro-optimistic” scenario is desirable and in demand, including in connection with the possibility of resolving the conflict in the Donbas by adopting the “Steinmeier Formula” and realization of the “Minsk Agreement,” and “inertial” scenario – one that reflects the current reform drift, then “blocking” scenario is providing tight stabilization, in the future provokes a new round of destabilization in connection with the conservation of contradictions.

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ABSTRACT

The work aims to analyze scenarios for the development of regional policy in Ukraine in conditions of decentralization and centralization trends confrontation in the country. The main problem is the establishment of structural completeness of the decentralization reform in Ukraine, which should involve the implementation of administrative-territorial, budgetary and political decentralization. An important task is also to determine the effectiveness of devolution, delegation, deconcentration, deregulation, and divestment, which are manifestations of the decentralization process and collectively determine the quality of reform. Based on the methodology of system analysis and the concept of “balance of relations,” as well as using a historical and comparative method in investigating the improvement of approaches to leading public policy, and a structural-functional method for analysis of territorial-political system as a decentralized and multi-level, the paper proposes an analysis of the balance of inter-level relations in the country, the effectiveness of reforms, decentralization and trends for further development. The work indicates that since 2014, administrative and territorial optimization and enlargement of communities have become the main result of the decentralization reform. The discussion of political decentralization remains extremely disturbing and is blocked as “separatism,” as well as attempts to resolve the conflict in the Donbas by political means through the adoption of the Steinmeier Formula are demurred as “capitulation.” The economic crisis, which coincided with the pandemic, can aggravate the negative perception of reform, the development of which remains possible within the framework of three development scenarios: “Euro-optimistic,” “inertial” and “blocking.”

Keywords: decentralization, centralism, regionalism, self-government, Ukraine

DECENTRALIZACJA VS CENTRALIZACJA: SCENARIUSZE ROZWOJU REGIONALNEGO UKRAINY W KONTEKŚCIE ZAPEWNIENIA STABILNOŚCI WEWNĘTRZNEJ

STRESZCZENIE

Celem badania jest analiza scenariuszy rozwoju polityki regionalnej na Ukrainie w obliczu sprzeciwu wobec trendów decentralizacji i centralizacji. Głównym problemem jest ustalenie strukturalnej kompletności reformy decentralizacji na Ukrainie, która powinna obejmować wdrożenie decentralizacji administracyjno-terytorialnej, budżetowej i politycznej. Zadanie polega również na określeniu skuteczności decentralizacji, delegacji, dekoncentracji, deregulacji, dywersyfikacji, które są przejawami procesu decentralizacji i zbiorowego określenia jakości reformy. Na podstawie metodologii analizy systemowej i pojęcia „równowagi relacji”, w artykule wykorzystano metodę historyczno-porównawczą w badaniu doskonalenia podejść do prowadzenia polityki publicznej oraz strukturalno-funkcjonalną metodę analizy systemu terytorialno-politycznego jako zdecentralizowanego i wielopoziomowego, w celu przedstawienia analizy równowagi wewnętrznych stosunków między poszczególnymi poziomami, oraz omówienia skuteczności reform, decentralizacji oraz trendów dalszego rozwoju. Prace wskazują, że od 2014 r. optymalizacja administracyjna i terytorialna oraz konsolidacja społeczności stały się

głównym wynikiem reformy decentralizacyjnej. Dyskusja na temat decentralizacji politycznej jest niezwykle bolesna, podobnie jak próby rozwiązania konfliktu w Donbasie środkami politycznymi poprzez przyjęcie tzw. formuły Steinmeiera. Kryzys gospodarczy, który zbiegł się z pandemią, może spotęgować negatywne postrzeganie reformy, której rozwój jest możliwy w ramach trzech scenariuszy rozwoju: “euro-optimistycznego”, “bezwładnościowego” i “blokującego”.

Słowa kluczowe: decentralizacja, centralizm, regionalizm, samorząd, Ukraina