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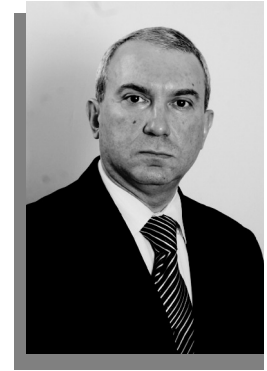
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ROLE OF LOCAL AUTHORITIES AND BODIES OF LOCAL GOVERNMENT IN ENSURING THE RIGHTS AND FREEDOMS OF CITIZENS

Defined in the Constitution of Ukraine the task of creating a democratic, social state ruled by law can not be solved without the full recognition of fundamental human rights and freedoms and the establishment of an effective system of security. It is no accident that the idea of recognition unassailable unity of law, human rights and their support reflected in the outcome document of the «Conference on the Human Dimension of the CSCE» (Copenhagen, 1990), which reads: «The rule of law is not just a formal legality which ensures regularity and consistency in achieving and maintaining democratic order, and justice based on the recognition and full acceptance of the supreme value of human personality and guarantee of institutions that form the structure which ensures the fullest manifestation»¹. Thus,

¹ Документ Копенгагенского совещания [Текст] // Международные акты о правах человека: сб. док. – М.: Юристъ, 2001. – С. 653.

we can conclude that the content ratio between the legal state and the individual in modern society is defined not only of rights and freedoms, but their level of security, which, in turn, is impossible without the successful coordination of actions between central and local authorities and local governments.

Hence follows the thesis of primary importance and practical need for scientific research on the role of local authorities and local governments on the level directly provided by the rights and freedoms.

The problem of protecting the rights and freedoms can not be attributed to insufficiently studied in legal science. Thus, the issue of human rights and revealed in the works of local researchers such as V. Isakov, V. Begun, S. Bodnar, V. Vasylichuk, N. Hayvoronyuk, D. Hudyma, P. Dobriansky, M. Koziubra, A. Kucuk, S. Maksimov, P. Rabinovich, Y. Razmyetayeva and others.

Various aspects of human rights and their protection level dissertations were reviewed by D. Kutomanovym, O. Miroshnichenko, S. Moroz, O. Pushkinoy, O. Horny, O. Shilo and others.

A considerable attention to the issue of human rights and their protection by central and local government paid to scientists such as I. Voronov, A. Boryslavska, V. Gladkih, T. Zavorotchenko, Y. Kalinowski, A. Klymenova, S. Kuznetsov, S. Chickens, A. Lyamar, I. Litvinenko A. Lukashenko, T. Okolit, K. Soh and others. However, there is a need for further theoretical and methodological research on the role of local authorities and local governments in ensuring human rights and freedoms, as outlined problem has not yet fully developed.

The article is to outline the role of local authorities and local governments in the context of fundamental rights and freedoms of citizens of Ukraine and determine the main directions of improvement of these institutions in respect of the considered issues.

At this stage of human development the problem of fundamental rights and freedoms of a man and a citizen gets global. It affects not only all levels of government and citizens' associations in the country, but also goes beyond them, spreading internationally, the planetary level. At the same time, the effective protection of rights and interests of citizen life is impossible provided it is only the responsibility of the state. Citizens also need to organize independently to protect existing laws and their rights. A typical example of such organizations is the national, regional and local NGOs

and local authorities. However, their activities should not duplicate the actions of the government and serve as an additional mechanism which, on one hand, helps to implement regulatory enshrined rights and freedoms, on the other, it is a kind of counterbalance to the power mechanism, in this case self-organization of citizens should resist possible arbitrariness of by governmental entities and officials¹.

Exploring this perspective, it is necessary to examine separately the local authorities and local authorities, because these are the first independent, non-governmental, apolitical associations of citizens within a defined territory, to promote certain vital interests and needs of citizens living in the area. In turn, local authorities are certain structural elements of the administrative central (national) of legitimate state authorities, district police station is an element, which is a national system such as the Ministry of Interior.

Consideration of the issues should begin with places that take local authorities and local governments to protect individuals or other vital rights and freedoms. According to Article 27 of the Constitution of Ukraine «Everyone has the inherent right to life. No one shall be arbitrarily deprived of life. The duty of the state is to protect life».² This issue is multi-dimensional, it includes the right

¹ Gladkih В. І. Соціальні права громадян України: Конституційно-правовий аспект [Текст]: моногр. / В. І. Гладких. – Х.: Факт, 2005 – С. 8, 9.

² Конституція України зі змінами. – Х.: Право, 2014. – С. 12.

to life as the state in which it is from the moment of birth to her biological death. When considering this dimension of the right to life is the greatest human benefit because the deprivation makes meaningless the existence of any other (social, economic or political) rights. It also includes aspects such as the right to be born, to demand removal of the danger that may occur due to the life of others, the right to protection of life and funeral to state, inter-state and international organizations, the right to dispose of their own lives. The activities of the competent authorities in this aspect relate primarily as law enforcement. If we consider the actions of local law enforcement departments, their activity is generally regulated by the relevant laws («On Police», «On the Security Service of Ukraine», etc.) and the department regulations. The activities of local structural units must meet the same general principles that determine the law enforcement system in general and compliance with the most important, basic human and civil rights. With that, it is not a declarative regulatory approval of certain principles in relevant specialized documents, and the existence of a real control of law enforcement, because they are public authorities that could significantly restrict human rights to achieve the public good. Here and there there is a need for independent and objective scrutiny on the part of non-state actors, but that may significantly affect the activities of these bodies.

Local government together with non-governmental public organizations must address those subjects that have the right

to control policing and enforcement activity in the field. This approach aims to prevent possible abuses or violations on the part of government agencies. Also, in essence agencies that act directly on the city, can act more quickly and make decisions according to the situation. Central office departments such as the Ministry include a significant amount of structural units, officials, contributing some of their bureaucracy, resulting in numerous delays in making responsible decisions. In the absence of public control, the most important element of which should be the local government, law enforcement and law enforcement in its activities are detached from the realities of life, seeks only to achieve declarative principles that do not correspond to real life situations¹.

Another, equally important right of any person has the right to liberty and security of a person. This right is reflected in article 29 of the Constitution of Ukraine². Renowned jurist S. Alekseev defines freedom as the ability of a man to be independent of other people freely exercising a statutory right to exercise their activity in the statements and actions³. However, it should be noted that the freedom to perform certain actions should not be unlimited, uncontrolled. It is the understanding of freedom that leads to anarchy and chaos. The most

¹ Рабінович П. М. Права людини і громадянина [Текст]: навч. посіб. / П. М. Рабінович, М. І. Хавранюк. – К.: Атіка, 2004. – С. 17–21.

² Конституція України зі змінами. – Х.: Право, 2014. – С. 12.

³ Алексеев С. С. Философия права [Текст] / С. С. Алексеев. – М.: Норма, 1997. – С. 6.

important task of the government in general and its structures separately is to achieve an optimal balance between the interests of society and the state as its product interests and identity, an individual citizen.

Ensuring freedom and personal inviolability is one of the priorities of local authorities and local governments as a special subspecies of democratic governance, the subject of which is residents of the settlements and administrative areas and content – that serve as the problem of providing a normal life of people in places of their compact residence. The specifics of their activities in this field are that local authorities better acquainted with the problems of a particular region, administrative-territorial unit. In addition, local government bodies and local authorities can respond to the emergence of specific life problems more actively and efficiently than the central authorities, which must monitor much wider territory.

The right to a personal security, which has an identical content with the right to freedom, should be understood as a human right in her bodily, sexual and psychological security. The right to security of a person and suggests that human freedom no one shall arbitrarily limit. It should distinguish two possible options for such a restriction. Firstly, the restrictions on third parties that are not entitled to such an action. In this case we talk about countering this limitation of the structural units of local law enforcement agencies, the Interior Ministry, prosecutors, the Security Service of Ukraine, the authorities in charge of

countering financial crime. Their reform, the active material and technical assistance and personnel support from the central agencies should be the factor that will lead to improvement of their activities at the local level and will minimize the violation of freedom and personal inviolability of citizens. Secondly, there are quite frequent violations of personal freedoms entities authorized to restrict this freedom in the interests of the whole society (law enforcement), here comes the need for effective human rights monitoring. It operates on many levels (global, international, national, regional, local). There are several possible subjects engaged in human rights activities (non-governmental and community organizations, the relevant officials of the central government, local governments).

The activities of local authorities in this aspect are decisive, as they are non-state structures that function not only for the interests of the citizens of a particular area, but also to achieve a certain dialogue between society, on the one hand, and the government, on the other.

Their activities in the field of protection of personal integrity should be based on principles of justice, rule of law, primacy of human rights and humanism. Local authorities in case of prosecution of a member of the respective communities should not only protect their interests, guided only by subjective factors, but help to establish the actual circumstances of a particular action or event. Of course it is not a duplication of local government functions of other state bodies, such as the bodies exercising pre-trial investigation or investigative op-

erations, and the presence of a certain control of access of local government to the established facts of the case for the purpose of public monitoring of the activities law enforcement and law enforcement¹.

Another important step in the rule of law, the rule of law is efficiency and fairness of decisions made by the judiciary in Ukraine. The Constitution of Ukraine, the Criminal Procedure Code and the Law of Ukraine «On the Judicial System and Status of Judges» to achieve their goals and to consolidate democracy in the judiciary introduces the jury and people's assessors acting in criminal and civil proceedings accordingly. Again, the main burden relatively ensures participation of the people in the trial lies with the local authorities and local governments. On them rests the task of drawing up and subsequent maintenance of the register of persons who may be involved as an assessor or juror. However, it is their partiality activity that enables ordinary citizens also to take part in the trial on the same level with the judges as representatives of the state judicial system.

The supervisory function of the public should also extend to control of the agencies conducting inquiry and investigation, carried out the detention or detention, arrest. This requires the actual state of affairs. After all, according to the Ukrainian legislation the person is held

in custody to 18 months, which is a significant term. In addition, according to statistics, the number of defendants and suspects, who are used as a preventive measure of detention, is about 45% (for comparison, in Western European countries with developed democratic system, the figure is 5%). In this case there is a threat of significant violations and abuses by the relevant authorities.

It should be said that while in custody the person who is suspected but not convicted of a crime often does not receive adequate legal assistance work without losing alternative compensation has no actual connection with the family for a long time, in many cases, a torture and unlawful use of force by law enforcement agencies. In this regard, we can say that the involvement of local authorities is a must, one of the real guarantors of legal rights. This involvement should be made mandatory, as the community as a set of citizens is an additional independent guarantee, a kind of mediator between the government mechanism that is represented by the investigation, prosecution, operational and investigative units, on the one hand, and the citizen, his judicial proceedings representatives (advocate, guarantor, etc.), on the other.

The current list of fundamental rights and freedoms is impossible without the right to health protection, medical care and medical insurance. This right is enshrined primarily in Article 49 of the Constitution of our state.² According to these provisions, this right includes state

¹ Калініченко О. Генеза системи конституційного контролю за реалізацією прав, свобод людини і громадянина [Текст] / О. Калініченко // Дайджест. Конституційне правосуддя в країнах СНГ і Балтії. – 2003. – № 14, ч. 2. – С. 120–124.

² Конституція України зі змінами. – Х.: Право, 2014. – С. 19.

guarantees: to provide health care by funding social, economic, health and wellness and prevention programs, create conditions for effective and affordable health care for everyone, the presence of which does not depend on social status or material wealth individual. In Ukraine, the system of a free medical care in the state and municipal health care facilities. The tasks of state and local government are to provide everyone with a list of services that contribute to the preservation, restoration or maintenance of health as a state of complete physical, mental and social well-being. Thus, we can conclude that the meaning of the concept of «health» in this issue is much broader than the traditional sense.

Basing on advanced concepts, we can say that the main purpose of government agencies in this case is not just to ensure the functioning of the local health system, but also to help in the fields of citizens adequate standard of living, including food, clothing, housing, health and social security, healthcare environment, sanitary and qualified medical care and legal protection against any discrimination or violations of human rights related to the physical, moral or mental condition of a person. The specifics of such support from agencies acting on the ground, is that national programs developed and embodied by central government authorities in health care often do not take into account local specifics (the rapid spread of certain unfavorable sanitary and epidemiological situation in a particular area, the characteristics of the material wealth and security of citizens

living in a particular area, the possible national and mental features. In addition local authorities is a way of self-organization of citizens, and thus more fully meet the real, practical interests of citizens¹.

In the context of the right to health should be considered extremely complex and multifaceted issue that today appeared before Ukrainian society. This is the problem of preserving the gene pool of the Ukrainian people, the solution of which under Article 16 of our Constitution belongs to the priorities of the state.² This issue received extremely significant weight in recent years due to the demographic crisis in Ukraine. The functions of local government and local government in this case were reduced to the following tasks: to monitor the quality of life of citizens, providing systematic recommendations central agencies and entities with respect to their potential measures to ensure financial, legal and medical assistance to the citizens that need it to power about 'of objective reasons. Priorities local government also includes the task of ensuring a safe living environment in the territory defined administrative unit. To do this, a clear and coherent cooperation between local and central authorities in combating deterioration and destruction of natural assets, opening hazardous industries is needed.

¹ Гладких В. І. Соціальні права громадян України: Конституційно-правовий аспект [Текст]: моногр. / В. І. Гладких. – Х.: Факт, 2005 – С. 62, 63.

² Конституція України зі змінами. – Х.: Право, 2014. – С. 9.

An integral part of human rights in modern developed democratic states face economic and social rights. Article 1 of the Constitution of Ukraine declares that Ukraine is a social state.¹ This provision means that despite the introduction of a market economy and capitalist relations, the state retains the duty to take care of strictly financial situation of its citizens, help individuals who are in need. This issue is multidimensional and includes the following obligations of the state: the creation of state insurance fund; providing one-off, pension and other benefits to certain categories of citizens; creating a network of state and municipal institutions of health and education, realizing the right of Ukrainian citizens to a free secondary education and health care, care for the steady growth of the welfare population, its purchasing power.

Defining the role of local authorities and local government in this aspect you should immediately isolate key problem of conflict between central and local authorities regarding the redistribution of taxes and social contributions in the field. The generally accepted world practice developed social welfare states is that it is the local authorities and local governments play a key role in the redistribution of assets allocated to local central bodies. This is because the local authorities are more aware of the problems that occur in a certain area, and if they occur can more quickly solve them. In addition, complex procedures reallocation of

funds from the center to a significant slowing of circulation, there are prerequisites for the emergence of corruption schemes. Therefore, to achieve social justice more appropriate to entrust the disposal of local budget funds to local councils.

One of the most important components of socio-economic rights is the right to work. As in the previous question, the role of local public authority is primarily to ensure a strong mechanism for implementing legislation. Yes, local authorities can be relevant structural units engaged in employment of citizens and to monitor the proper conditions in relevant industrial or non-production facilities. Thus, the social security of citizens in the modern state with a market economy remains one of the priorities of the state. And local governments and local authorities are the structures that directly help citizens exercise their right to a dignified and prosperous life.

To sum it up, we can conclude that local government, in accordance with Articles 140–145 of the Constitution of Ukraine is a form of citizen participation in government – a form of local Territorial community (residents of a village, town or a voluntary association of residents of several villages items territorial administrative units)². Local government can decide internal matters of local significance within the limits and in accordance with the Constitution and laws of Ukraine. Local government is the most effective mechanism for

¹ Ibid (p. 7)

² Конституція України зі змінами. – Х.: Право, 2014. – С. 54–57

curbing central government, a way of defending the interests of a particular territorial association. In this case, members of a community established on the territorial principle perceive themselves not only as a citizen of Ukraine, but also the inhabitants of a particular locality, district. Providing broad public authority to local govern-

ments is one of the key features of a democratic state with a right-developed civil society.

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