

**Paneurópska vysoká škola, Fakulta práva**

**PRÁVNA VEDA A PRAX:  
VÝZVY MODERNÝCH EURÓPSKÝCH  
INTEGRAČNÝCH PROCESOV**

Zborník príspevkov z medzinárodnej vedeckej konferencie

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## CONSTITUTIONAL AND LEGAL REFORM OF LOCAL SELF-GOVERNMENT IN UKRAINE: PROBLEMS AND PROSPECTS

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The local government, fundamental institution of the state system of every democratic country, assumes particular significance in terms of political and economic crisis. Its operation testifies the democratic nature of public authorities, depending on the extent of its development, the extent of its impact on local politics, the extent of democracy of the modern system of power.

Self-government today is a stable institution of municipal power that is able to fulfill its obligations to the community without unnecessary political debate and bear responsibility for its actions, as the solution of the most important issues of the daily life is its prerogative. However, it is the social and economic crisis that clearly reflects the shortcomings of its development in the sphere of authority exercise, work organization, formation mechanism, thereby encouraging it to a comprehensive reform.

The existing situation does not contribute to the effective implementation by Ukraine of the European integration policy, development of cooperation with European institutions, especially the Council of Europe and the European Union. In particular, the constitutional and legal principles of local self-government and the principles of the European Charter of Local Self-Government contradict each other despite the fact that Ukraine has committed to implement the latter to the full extent [1].

In this regard special consideration shall be given to the issue of compliance of the Ukraine Constitution and legislation principles with the European principles and standards for the decentralized government enshrined in the European Charter of Local Self-Government as well as identification of key directions of the current system of local self-government improvement. It is an advanced system of statutory and regulatory enactments that in this area should be the basis for developing and implementing the principles of the innovative model of social and state development, define a clear division of powers, which will provide the balance of power, protect Ukraine from conflict, authoritarianism and will be the next step towards the implementation of such program provisions as establishment of a democratic, social, law-bound state in Ukraine.

The indicated facts completely refer to the definition of local self-government bodies in shaping the national innovation policy and clarifying their role in the creation of preconditions for effective innovation development of regions, separate territories and settlements, that is determined primarily by the degree of their economic and financial viability, innovation potential, which depend, including, on the degree of autonomy and capacity of territorial communities, authorities and local government officials.

Today, implementation of a comprehensive reform of any fundamental institution of the state system in the most modern countries is not possible without making

changes to the Basic Law, regardless of the level of its constitutional and legal confirmation. However, it is worth to mention that the level of such regulation is not always the determining factor in this process, because the European Charter of Local Self-Government admits the absence of a constitutional confirmation of the local self-government.

For example, the Basic Law of Canada consists of the constitutional laws, the main of which are the Constitutional Acts of 1867 and 1982 [2], does not directly regulate the organization and activities of the local self-governments but only states that these issues are regulated by the legislation of provinces. This approach makes possible the existence and functioning of a unique system of local self-government in each of the provinces as well as consideration of specific features of the particular area in the legislation. Such factors as the density and specific character of national composition of the province population, geographical location, economic and political situation in the region – they all collectively affect the definition of the structure, the order of formation and functioning of local self-government bodies in each province. In its turn, membership to a different legal family, a clear constitutional entrenchment of principles and substantive provisions of the local self-government of Germany does not prevent the functioning of a number of different models on the foundation of historical traditions and with regard to all modern reforms carried out by the EU member states.

Despite these differences, the local self-government of both countries although equally strong and capable, yet remains vulnerable to the problems and challenges of the similar nature. Therefore, we can conclude that a proper system of constitutional and legal regulation primarily involves finding a balance between the constitutional enshrinement of general principles and rules and their specific implementation through the adoption of appropriate laws and other legal acts. That is why before implementation of reforms it is necessary to form a clear vision of the problems to be solved, and ways to solve them. It is necessary to establish a required level of the constitutional entrenchment of the local self-government, which shall meet not only international standards, but also create a basis for further development of this institution.

Support for the European integration course of our state is now impossible without a consistent implementation of provisions of all 11 Articles of the European Charter of Local Self-Government and contribution to their implementation by the government. Meanwhile the articles of the Charter governing: 1) financial resources; 2) administrative supervision; 3) competence of local authorities partially or completely contradict some norms of the Ukraine legislation.

Proceeding from these examples, we can conclude that during the conduct of the constitutional and legal reform it is necessary to consider first that by regulating the local self-government we have a direct impact on the life of each person within the state. Ensuring the right to local self-government along with others is a key factor in establishment of the legal consciousness process, formation of legal behavior of a citizen and ensuring its participation in building a strong civil society, the creation and operation of which is impossible without the influence of the state.

It is worth noting that a considerable part of the contemporary problems of the local self-government in our state originates from the time of the system reform follow-

ing independence in 1991. Centrality of the system, competencies competition and actual delimitation of the local self-government both from the central executive authorities as well as from a particular individual – all are the consequences of the fact that the internal structure of the local self-government system was formed as a kind of a copy of the state government system of that time [3].

To summarize, it seems obvious that ideal local self-government cannot exist; all modern world systems have their advantages and disadvantages. Constant movement and reformation present the main factor of its ability. The modern pace of life constantly makes the state and its citizens meet new challenges such as the global economic crisis, the constant rise in energy prices and the search for more effective substitutes of energy products, the instability in the international relations of many states as well as other economic and social problems. A mobile and flexible local self-government shall become a link between the citizen and the state to ensure both an adequate level of life of every person and a comprehensive development of the country as a whole in the modern world.

#### Literature:

1. European Charter of Local Self-Government [Electronic resource] – <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168007a088> (accessed 26.11.2015)
2. Canada Constitutional Acts, 1867 to 1982 [Electronic resource] – <http://laws-lois.justice.gc.ca/eng/Const/Index.html> (accessed 26.11.2015)
3. Zakon Ukrainy «Pro Mistceve Samovryaduvannya» 21.05.1997 (Ukrainian Law on Local Self-Government) [Electronic resource] – <http://zakon3.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80>

## ТОРГІВЛЯ ЛЮДЬМИ – ПОРУШЕННЯ КОНСТИТУЦІЙНИХ ПРАВ ТА СВОБОД ОСОБИ

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Взявши курс на інтеграцію до європейського співтовариства наша держава зобов'язалася провести низку реформ які мають на меті, окрім підвищення рівня добробуту населення, також викорінення усіх негативних проявів. Серед цих негативних проявів є і торгівля людьми. Торгівля людьми, особливо жінками і дітьми, яка з розряду другорядних перейшла до глобальних проблем ХХІ ст. та стала викликом світовому співтовариству, є одним з найбільш небезпечних для