ТЕОРІЯ ТА ІСТОРІЯ ДЕРЖАВНОГО УПРАВЛІННЯ

УДК 321.01:342.25](4+477)

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PROVISION OF THE TERRITORIAL INTEGRITY OF THE STATE WITHIN THE REGIONAL ADMINISTRATION REFORMING: THE EUROPEAN EXPERIENCE FOR UKRAINE

The article presents the analysis of the main causes for inter-regional disparities and aggravation of interethnic contradictions in Ukraine after the independence renewal in 1991, identifies tools for counteracting separatist tendencies in the process of reforming regional administration, taking into account history, internal factors and external threats. The experience of applying asymmetric decentralization model in a number of European countries is considered, the possibilities and the precautionary factors for its implementation in the process of decentralization reform in Ukraine are analyzed.

Key words: regional administration; asymmetric decentralization; separatism.

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ЗАБЕЗПЕЧЕННЯ ТЕРИТОРІАЛЬНОЇ ЦІЛІСНОСТІ ДЕРЖАВИ В ПРОЦЕСІ РЕФОРМУВАННЯ РЕГІОНАЛЬНОГО УПРАВЛІННЯ: ДОСВІД ЄВРОПИ ДЛЯ УКРАЇНИ

У науковій праці представлено аналіз основних причин виникнення міжрегіональних диспропорцій та загострення міжетнічних протиріч в Україні після поновлення незалежності у 1991 році, визначено інструменти протидії сепаратистським тенденціям в процесі реформування регіонального управління з урахуванням історичних факторів, внутрішніх чинників та зовнішніх загроз.

Авторами приділено увагу питанням розробки та реалізації державної регіональної політики, яка в усьому світі є дієвим інструментом подолання економічних диспропорцій, соціо-ментальних відмінностей між регіонами та протидії сепаратистським тенденціям. В той же час, у сучасній Україні регіональні інтереси і регіональна політика актуалізувалися насамперед у контексті особистих чи корпоративних цілей владних еліт. Отже, незважаючи на створення нормативної та інституційної бази для впровадження регіональної політики, за роки незалежності не було досягнуто відчутного зменшення міжрегіональних диспропорцій, зусилля держави не вплинули на системне вирішення проблем депресивних територій.

Важливим фактором зростання соціально-політичної напруги у суспільстві були етнічні та мовні питання, які активно використовувалися політиками під час передвиборчих перегонів. Безсистемна законотворчість у сфері мовної політики сприяла трансформації питання мови у дестабілізуючий чинник.

У статті детально розглянуто досвід застосування моделі асиметричної децентралізації у низці європейських країн: Іспанії, Італії та Франції; проаналізовано можливості та запобіжні чинники щодо його імплементації в процесі реформи децентралізації влади, що триває в Україні. Зокрема, розглянуто які фактори були рушійними силами для розвитку сепаратистських тенденцій в окремих регіонах, та які механізми застосовував центральний уряд для їх мінімізації та забезпечення територіальної цілісності держави.

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Автори також звертають увагу на історичний досвід державотворення на українських землях, що свідчить про формування України саме як унітарної держави. Лише розглядаючи територіальний устрій у період Київської Русі, можна говорити про федеративне (часом конфедеративне) об'єднання. Українська козацька держава формувалася як унітарна, так само не йшлося про федеративній устрій і в період УНР, Гетьманату та Директорії.

У статті зазначено, що небезпека федералізації в Україні обумовлена політичними факторами і зовнішнім тиском, і не пов'язана з самою концепцією федеративної держави. Сьогодні Росія розглядає федералізацію України як засіб забезпечення її нейтралітету, в той час як основний принцип федералізації полягає в тому, щоб надати субнаціональним одиницям конституційно закріплені права на загальний суверенітет, а не гарантувати певний рівень політичного впливу на центральну владу.

На підставі проведеного аналізу зроблено висновок, що в Європі навчилися протидіяти сепаратистським тенденціям, адекватною відповіддю на які стала децентралізація, що була реалізована у багатьох європейських унітарних державах. В той же час, в умовах, що склалися в Україні, дуже важливо в процесі децентралізації не допустити відцентрових тенденцій, повернення до ідей федералізації та посилення сепаратизму. Отже, слід дуже обережно підходити до застосування моделей, що передбачають асиметричну децентралізацію.

Ключові слова: регіональне управління; асиметрична децентралізація; сепаратизм.

Постановка проблеми The Ukrainian nation was able to preserve itself in conditions of the absence of full statehood, while most of the existing European countries

were historically established and developed themselves as nation-states. The belonging of Ukrainian lands to different countries over a long period caused differences between the modern Ukraine regions. In 1991, Ukraine was actually a state in which different groups of regions were strongly attracted by different centers of influence outside the country. However, the gap in the socioeconomic development of the Ukrainian regions remained within the disproportions existing in some European countries. At the same time, socio-mental differences that could negatively affect the development of the country as a whole, especially when actively used in the political struggle, were sharply manifested.

Аналіз останніх досліджень і публікацій The issues of regional administration reforming, effective regional policy formation, analyzing and implementing the best foreign administrative practices were reflected in the works of many domestic scientists: V. Bakumenko,

Z. Balabaieva, T. Bezverkhniuk, V. Vakulenko, P. Vorona, N. Zelinska, M. Dolishnii, M. Izha, V. Kuibida, Y. Kuts, M. Lakhyzha, V. Mamonova, M. Mykolaichuk, P. Nadolishnii, L. Prykhodchenko, S. Sakhanenko, A. Tkachuk, V. Tolkovanov, O. Topchiiev, N. Fomitska, O. Frolov, Y. Sharov and others.

Виклад основного матеріалу At the same time, the Ukrainian ruling elite for a long time ignored the above-mentioned problems and delayed the reform of regional administration system inherited from the socialist times. Consequently, the negative

economic phenomena were followed by the tendencies of confrontation between regional elites and central authorities and the separatism threat became acute.

The latest developments in the Donbas have shown that separatism, by threatening state sovereignty, undermines territorial integrity, violates the principles of geopolitical security of our country, diminishes its international prestige and so on. Separatism caused an armed conflict that led to human casualties, the emergence of refugees, the destruction of regional economic infrastructure and

social institutions, and the reduction of territorial power efficiency [13].

The concept of "Separatism" is defined in administrative science as a kind of opposition, a political movement aimed at separating part of the territory of the state in order to create a new (or join already existing) state formation or to grant autonomy for a certain part of the state [2].

Throughout the world, regional policy realization is an effective tool for overcoming economic and socio-mental disparities between different regions, and counteracting separatist tendencies. The determinative approaches to the state regional policy principles are laid down in the Constitution of Ukraine. Article 132 defines that "the territorial structure of Ukraine is based on the principles of unity and integrity of the state territory, balance of socioeconomic development of the regions, taking into account their historical, economic, environmental, geographical and demographic characteristics, ethnic and cultural traditions" [4]. Presidential Decree No. 341/2001 of May 25, 2001 approved "The Concept of State Regional Policy". This document gave impetus to the creation of legal support for shaping regional policy as an independent sphere. However, despite the creation of regulatory and institutional framework for regional policy implementation, neither significant reduction of inter-regional disparities, nor creation and stimulation of "growth points" was achieved during the years of independence. The efforts of the state did not influence the systematic solution of the depressed territories problems.

It was necessary to promote economic and industrial cooperation, cultural and ethnic relations between the regions of Ukraine, especially between the West and the East. However, instead of implementing regional policy and ensuring regional development, the ruling elites were engaged in their own enrichment and privatization of valuable assets in the state.

Regional interests and regional policy were first of all actualized in the context of the elites' personal or corporate goals. The struggle for power was the main of these goals: for the ruling elites in order to hold their positions; for non-ruling ones – to occupy such positions. The center considered the regions as mainly a periphery where major issues were not resolved and politically significant decisions were not made. Thus, the regions

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were regarded as an important resource for political competition [6].

At the same time, due attention was not paid to the external threat, namely to the intensification of the Russian Federation policy aimed at deepening its influence in the post-Soviet space, the exercise of economic, information and political pressure to the neighboring countries.

Complex and contradictory processes of ethnonational development were reflected in the language issue. The authorities of Ukraine have let the language problems solution to take its course. That has resulted in a gradual increase in discontent with a large part of both Ukrainians and national minorities. The Law "On the Principles of State Language Policy", adopted in 2012, immediately provoked a confrontation in society, and its abolition in early 2014 led to a new round of tensions, prompting the Verkhovna Rada to reinstate it [8].

The adoption of the Law "On Education" in 2017 caused not only a negative reaction of some national minorities, but also of the leading circles of their ethnic homeland states. Sporadic and random lawmaking does not solve overdue problems. As the practice of recent years attests, it can exacerbate pressing issues and create new ones, increasingly transforming language issues into a destabilizing factor [8].

Ethnic and linguistic factors have been actively used by politicians in the run-up to the polls. Political parties became conductors of particular, selfish, self-serving interests, disregarding the fact that the use of language issues in narrow party interests does not contribute to the consolidation of the country and could be used by Ukraine's external enemies.

For a long time, there was no political force in Ukraine that enjoyed equal popularity in all regions. Virtually all the parliamentary elections that have taken place in Ukraine throughout its recent history have demonstrated the extremely sharp regional polarization of the electorate and regional limits of electoral influence for most parties and election blocs.

Socio-mental differences were also clearly revealed during the 2004 and 2010 presidential election campaigns, when Viktor Yanukovych steadily received support in those regions of Ukraine where the Russianspeaking population prevailed (the Autonomous Republic of Crimea and the city of Sevastopol, Dnipropetrovsk, Donetsk, Zaporizhia, Luhansk, Mykolaiv, Odesa, Kharkiv and Kherson oblasts) [14].

These problems are not unique, being present in other countries. In Europe, they have learned to resist the separatist tendencies by responding appropriately via decentralization that has been implemented in many European unitary states. Some of them have realized an asymmetric decentralization model, which involves the simultaneous use of different forms of decentralization (extended autonomy, limited autonomy and special autonomy) in certain regions of one, mostly unitary country. Such a form of decentralization is a part of the strategy of "diversity in unity" or "unity in diversity" widespread in the modern world for the development of regional culture, including the political one [3, p. 203].

The assumption that symmetry invariably promotes harmony, while asymmetric models generate differences in federations and decentralized unions, is not always confirmed in practice. In European federations such as Belgium, Germany (after the reunification) and Spain (although nominally it is not a federation, but in many aspects it has the federation basic characteristics), the methods of constitutional or political asymmetry have been successfully applied. At the same time, there are less encouraging examples: the existence of significant asymmetry was one of the major factors for the breakup of federations in Yugoslavia (1991), the USSR (1991), and Czechoslovakia (1992) [19].

A revealing example of asymmetric decentralization use in the European continent is Spain. For a long period in the twentieth century, Spain had a strong, centralized, authoritarian and bureaucratic administration system under the dictatorial rule of General Franco. Very soon, the country moved to a model in which new regional authorities were created, acting as major collective players in the system and having their own independent executive. legislative and judicial bodies.

The democratic system, defined by the Constitution of 1978, created a new level of government called "Autonomous Communities" (Comunidades Autonomas), which coincided with existing national (Catalonia, Basque Country and Galicia) and regional entities. The recognition of regional diversity and its integration into the democratic system was one of the main goals for the new Spanish democracy. The country is now divided into 17 autonomous communities, having their own political and departmental structures.

The country's constitutional transition from a highly centralized unitary system to a decentralized one based on a plurality of regions with a certain degree of autonomy has become a significant event in Spain's history. It signifies recognition at the constitutional level of Spain's cultural diversity, as well as guarantee of autonomy to communities that sought political expression of their particular identity but were deprived of this right by previous regimes [15].

At the same time, there is a problem of separatism in Catalonia, the autonomy of which was restored after the transition of Spain to democracy in 1979. The central government significantly extended the local self-government powers, gave Catalonia the right to administer all local taxes and half of the central taxes collected in the province. The Catalan language was granted official status. However, some Catalan citizens and politicians believe that this is not enough.

Catalonia is the most economically developed region of Spain, producing about 20% of gross domestic product. This factor also contributes to increasing in the number of the region's independence supporters. 2.2 million people (43% of the total number of voters) participated in the referendum held on October 1, 2017. 90.18% of them voted for independence [1].

The Basque Country is weaker in economic terms than Catalonia, but enjoys benefits of a special tax regime. It manages its own tax revenue and pays only a small amount to the Spanish budget, unlike the Catalan region. At present, the Basque nationalists do not consider the task of gaining independence as a priority, seeking only the extension of autonomy rights [9].

Italy has 5 special status regions with special autonomy conditions and additional (to Italian) official languages. These regions are: Sicily, Sardinia, Trentino-Alto Adige, Friuli-Venezia Giulia and Aosta Valley. The special status

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is enshrined in the Italian Constitution, and the statutes of each region are determined by the Constitutional Law. These regions have considerable autonomy in the legislative, administrative and financial spheres. They self-organize their local communities and keep most of the taxes in the regional treasury. For example, Aosta Valley keeps over 90% of all taxes, and Sicily – 100 % [18].

Four autonomous regions were created in 1948: Sardinia and Sicily – as isolated from the continent, economically poor and having separatist tensions; Trentino-Alto Adige – to protect its German-speaking minority; the Aosta Valley – to protect Francophones after the attempt of General de Gaulle to annex this region had failed. The Friuli-Venezia Giulia region was created in 1963 after the return of Trieste to Italy. The region was situated on the border with the communist bloc, and the Slovenian minority availability was the key reason for its special status [18].

The movements of the northern industrialized regions have recently become influential in Italy. Separatism is manifested in actions and ideology of the Northern League party. Today, the League's new goal is the federalization of Italy with the fixing of preferences in favor of the northern regions. The Northern League differs from other regional separatist movements. It claims the rights not only for the North, but also for all regions that may arise as a result of the transformation of Italy into a federation. The League is represented in the central government and most regions of Italy. So, today the economic factor is the decisive one in the Italian separatism formation. It is caused by economic disproportion in the country and the unwillingness of the most developed northern regions to retain the southern ones [13].

In France, four overseas departments (Martinique, Guadeloupe, French Guyana and Reunion) are territories enjoying special status.

In mainland France, the status of Corsica differs significantly from that of other regions of the country. It is similar to the status of French Polynesia, which is an overseas territory. The French Republic guarantees the Corsican people, as an integral part of the French people, the right to preserve its cultural features and to protect its specific social and economic interests, as long as they do not harm the national unity and integrity of France [7].

Corsica has a status different from other French regions under the law of May 13, 1991, providing wider autonomy for it. In order to exercise all its powers, Corsican Territorial Community has usual resources of the regions and receives mainly revenues from taxes on air and sea transport companies as well as from excise duties on alcohol and tobacco. In addition, since 1976, the island has been receiving a territorial indivisibility grant from the state [17].

The United Kingdom is another example of asymmetric decentralization among decentralized unitary states. The elected assemblies of Scotland, Wales and Northern Ireland have different legislative powers, while in England there is no representative assembly at all.

The asymmetric model was also de facto applied in the Federal Republic of Germany with respect to the eastern lands after the unification of the country.

From the very beginning of the new Ukrainian state formation, there was an active discussion about its constitutional and administrative-territorial structure, the possibilities of transition to federalism. Even during the first presidential campaign of 1991, there was a debate about the federalization of Ukraine between two rival democratic opposition candidates Viacheslav Chornovil and Levko Lukianenko. The former argued for the fundamental possibility of a transition to federalism in the future, while the latter was strongly against it [6].

In the years to come, the ideas about federating Ukraine periodically appeared in the country. For a considerable time, Ukraine has been invaded by its neighbors; therefore each of its parts has its own national and cultural characteristics. At the same time, the leading circles of Russia, being incapable to reconcile themselves with sovereign Ukraine, continue to use ethnographic differences in some regions as a basis for forcing interethnic contradictions. Ukraine is imposed the idea of becoming a federation, in which some regions would in fact have a veto power in foreign affairs, security and cultural policies of the country.

The dangers of federalization in Ukraine flow from political factors and external pressure, rather than from the concept itself. The core principle of federalization is to accord subnational units constitutionally enshrined rights of shared sovereignty, and not to guarantee a particular level of political influence over the central state. Russia sees Ukraine's federalization as a means of ensuring its "neutrality." Federations leave foreign, security, and trade policy in the hands of the central government. However, Russian vision consists in Ukraine's Eastern regions being able to pursue their own foreign policy alliances [16].

The federation is not only budgetary and administrative autonomy and bicameral parliament; it also foresees the existence of its own legislation. The legislatures of the federation subjects may adopt their own laws under which their legal proceedings are carried out. In Ukraine, at this stage, this would be clearly destructive and would threaten the country's territorial integrity.

Europe has only 6 federal countries: Austria (since 1920), Belgium (since 1993), Bosnia and Herzegovina (since 1995), the Russian Federation (since 1992), Germany (since 1949), Switzerland (since 1848). At the same time, most European countries were and remain the unitary states.

The historical experience of state-building testifies to the formation of Ukraine as a unitary country. Only when considering the territorial structure in the Kyiv Rus period, we can speak of a federal (sometimes confederate) association of tribal unions, then tribal principalities, and later territorial principalities [12, p. 92]. The Ukrainian Cossack state was formed as a unitary one, so were the Ukrainian People's Republic (UPR), the Hetmanate, and the Directory. In particular, the Constitution of the Ukrainian People's Republic adopted in 1918 "granting its lands, volosts and communities the right of broad self-government and respecting the principle of decentralization" nevertheless proclaimed the UPR "an indivisible state" [5, art. 1].

At the same time, decentralization can be an effective response to the attempts of exacerbating political contradictions within the country.

The idea of decentralization of power has been an organic component of Ukrainian socio-political and state building ideas since at least the mid-nineteenth century. State system decentralization was considered by domestic

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scholars together with the principles of democracy and local self-government as an effective guarantee for respect of democratic rights and freedoms of citizens. Since the time of the Cyril and Methodius Society, through M. Drahomanov's "Free Union" (Vilna Spilka) the idea of decentralization has been the basis for the political projects of the Russian Empire reforming, until it was implemented in the state system of the Ukrainian People's Republic of 1917-1920. Unfortunately, under the specific conditions of those times, it was not possible to build public administration system based on the consistently implemented decentralization principles [3, p. 92].

In 2014, Ukraine launched the large-scale reforms envisaged by the "Ukraine 2020" Presidential Strategy. Decentralization of power was one of the priority reforms, the main directions of which were defined by the Concept of reforming local self-government and territorial organization of power, approved by the Decree of the Cabinet of Ministers of Ukraine on April 1, 2014 [11]. Unlike some other transformations initiated by Euromaidan, this reform exists not only on paper. It has already led to visible changes in citizens' lives.

While decentralization in present Ukraine, it is very important to avoid centrifugal tendencies, as well as the ideas of federalization and separatism. Therefore, in our opinion, the use of models that imply asymmetric decentralization should be carried out with great care. The implementation of an asymmetric model requires identification of a group of exclusive regions with more autonomous rights; fixing in the Constitution the specific status of some regions; creation of mechanisms and procedures for formation of regional authorities and their responsibilities. This scenario can be deployed both under and beyond the revision of administrative and territorial structure of Ukraine. In turn, the granting of exclusive rights to a group of regions may cause disagreement among other regional elites, leading to an escalation of social instability [6].

Provisions that correspond to the asymmetric model are contained in the Law of Ukraine "On special local self-government order in certain raions of Donetsk and Luhansk oblasts". According to the document "Executive power bodies promote the development of crossborder cooperation in certain raions of Donetsk and Luhansk oblasts aimed at solving common problems of development, strengthening and deepening of goodneighborly relations between territorial communities and local self-government bodies of certain raions and the administrative-territorial units of the Russian Federation on the basis of border cooperation agreements [10, art. 8].

There are other rules in the above mentioned law that are different from those applicable to all other administrative units, such as the procedure for appointing heads of prosecuting authorities and courts. In fact, the practical application of this law will mean asymmetric decentralization. However, it should be noted that the Constitution of Ukraine clearly states the form of local authorities' organization; it is the same for all regions without exception.

Висновки

In our view, the use of the European countries' successful experience is inappropriate in this case. In France, for example, the special status of

Corsica and the overseas departments and territories is

due to historical factors resulting from the transformation of relations between the metropolis and former colonies. It should also be borne in mind that attempts of external influence on political processes in Ukraine, territorial claims and direct threat to the territorial integrity of the state constitute a limiting factor for the use of a regional administration model, granting special status to certain territories in Ukraine.

We believe that it is necessary to speak about full decentralization for all regions, taking into account their peculiarities, including certain raions of Donetsk and Luhansk oblasts after the restoration of Ukrainian power in these territories. By moving away from excessive centralization in budgetary management issues and introducing a new approach to center-regions relations, the state will be able to successfully counteract separatist tendencies.

In the case of tangible regional development that will enable local communities inhabitants to work, to earn decent wages, to study, to rest and simply to live in safe conditions, using modern infrastructure, they will not be interested in the ideas related to separatism.

At the same time, the experience of asymmetric decentralization is valuable. After regaining control of Ukraine over Crimea, it can be used in relation to this territory. The use of asymmetric decentralization in this case is due to historical factors, since Crimea already has autonomous status in Ukraine and is the historical homeland of the Crimean Tatar people.

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- ністрування: теорія, практика, міжнародний досвід: матеріали Всеукраїнської наук.-практ. конф. за міжнар. участю. (Одеса, 27 жов. 2017 р.) Одеса: ОРІДУ НАДУ, 2017. С. 157–159.
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