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THE DECENTRALIZATION REFORM IN POLAND AS ROADMAP FOR REFORMS IN UKRAINE

The article is dedicated to the main specific characteristics and concepts of the Polish decentralization reform. The decentralization reform is giving an opportunity to create a real basis for the democratic development of the states and it is part of the global changes of post-socialist states toward new democratic values. Since the socialism as a command and administrative control system had kept rigid the centralization of power and the attack on centralization considered an encroachment on the existence of the state itself, it was important to break such system for newly arisen states. Even though Poland and Ukraine have started their structural reforms mostly at the same time in the 90s of the 20th century, the Polish strategy has succeeded more. That is why the studying of the Polish reform process and its doctrinal foundations is very important for Ukrainian legal doctrine.

Keywords: decentralization, democracy, administrative division, reform, eurointegration, Poland, Ukraine.

The partnership relations between Ukraine and Poland are a unique phenomenon in relations with the former socialist countries of Eastern Europe. It was Poland which took on a difficult mission to be the locomotive of Ukraine in its move to the European Union. It should be noted that our neighbors from the very beginning of the processes of democratization demonstrated the high pace and quality of social transformations, quite successfully applying models of radical changes in the economy and the political strategy that were developed and proposed by the international monetary and financial institutions. A special role in these processes was given to the decentralization of power.

The Polish experience of market transformation is sufficiently widely represented in the Ukrainian scientific community. These are publications by well-known scholars and practitioners of Polish reforms: L. Balzerovich, A. Wildawsky, R. Hortat, M. Dabrowski, L. Kolyarska-Bobynska, A. Levitas, V. Orlovskiy, M. Federovych and others like that. One should highlight such an unsolved earlier component of the success of democratic transformations as the decentralization of power. For Ukraine it is vitally important to improve its system of governance and introduce essentially local democracy for the general success of current reforms.

Starting democratization, Polish political and legal doctrine adhered to the concept of the prominent neo-conservative representative J. Muravchik, who was inclined to the fact that the general support of the democratic path of development would create a "world of an American model that does not look like any of the past – it will be peace, harmony, and not confinement"¹.

This context implies, first of all, the presence of representative and accountable authorities. In this case, the relevant government institutions and structures should be updated periodically on a constitutional basis, and their leaders must be guided solely by the rule of law. Polish model of democracy based on the creation of a social and cultural climate in a society that enables the implementation of precisely this form of democracy. The main thing in practical terms is that the Poles, following the Western model, considered the most important establishment of a democratic system of permanent quality and not to put on a particular leader or party that will support this process and phenomenon.

Significance in this context is given to the formation of the stability of civil society in the understanding of the best representatives of the world's western political thought. In political science and specifically towards the newly independent states with a socialist past, this approach to the definition of democracy was most clearly represented in the writings of M. Halperin and D. Scheffer. They use the term

¹ Muravchik, J. (1992). *Exporting Democracy: Fulfilling America's Destiny*. Washington, DC: American Enterprise Institute, 321-322.

"limited constitutional democracy", referring to the impossibility of the immediate and unconditional application and implementation of completed patterns of democracy in the political practice¹.

Ideologists of the Polish variant of development proceeded from the fact that the post-bipolar world in the sense of democracy is divided into two parts:

1. Zone of peace, well-being and democracy.
2. Zone of anxiety, riots, war and development².

Such a division of the contemporary political world makes it possible to consider the second part as perspective, leaving hope that the world will become the only one in the future, built precisely on democratic principles and find ways of transition of the countries in the second group to the first. The supreme principle for both parts of the world is thus called the higher value of man, not of politics, state or things. In this way, the Polish political culture in its higher forms excludes the possibility of sacrificing a person for the sake of territorial or economic achievements.

Calling for caution in the hopes that the zones of democracy and peace will soon cover the whole world, M. Singer and A. Wildawski argue that such a situation will become possible if the concept of supremacy of "sovereignty of the world" is implemented over "national sovereignty". This concept assumes the priority of local and regional authorities as the closest to the person (or authorities of the sovereignty of the world), over the authorities of the central (authorities of national sovereignty).

The Poles had close to Ukrainian starting conditions, as evidenced in particular the nature and circumstances of the first free elections in Poland. They, like in independent Ukraine, were conducted after prolonged tyranny. And again, as in Ukraine, the elections took place on a wave of mass euphoria, the participation of too many parties, most of which were called democratic, and declared their intention to become the only saviors of the nation and the state. Poland looks relatively balanced in this background – 62 parties participated in the first free elections that took place in 1991³. And among them, one can find truly democratic, rather ideologically, "Solidarity" and chauvinists, liberals, and supporters of preserving certain principles of communist rule.

Excessive fractionalization, according to general recognition, complicated the work of parliament and negatively affected the nature and pace of adoption of new laws. Consequently, there is every reason to agree with Professor A. Mokritski of the Polish Academy of Sciences when he calls the paradoxical phenomenon of Polish democracy a clash of its traditional understanding in society with the problems that everywhere and always accompany the revival of the democratic process at the stage of transition to a new system⁴. It should be borne in mind that the proclamation of democratic principles by the majority of Polish parties in 1989 – 1991 was carried out on the basis of divided thinking. On the one hand, democracy was already understood as the participation itself in social protest against socialist totalitarianism and Soviet enslavement, and on the other hand, the elementary pragmatism of politicians, who counted their votes only under the guise of democratic slogans, was signaled⁵.

The consequence of such a split, inherent in our opinion, for many Ukrainian parties today is the frequent and controversial combination of sometimes contradictory concepts, for example, such as "public order" and "freedom". The fact is that the term "order" in this case often carries the imprint of the traditional Marxist-Leninist worldview, in which the supreme value is determined by the state as a power structure, designed to interfere in all affairs of society.

Poland overcame this duality thanks to the decisive decentralization of power, when every citizen, every gmina, each region received an appropriate share of both power and responsibility for its implementation. Thus, taking part in management processes at various levels, the Poles obviously quickly understood the need for the separation of powers not only horizontally on the branches of power,

¹ Halperin, M.H., Scheffer, D.J., Small, P.L. (1992). *Self-Determination in the New World Order*. Washington, DC: CEILP, 89-90.

² *Social Change and Modernization. Lessons from Eastern Europe*. Editor Bruno Grancelli (2005). Berlin – New York, 25-30.

³ Blanchard, O.J. (ed.) (1994). *The Transition in Eastern Europe. Vol. 1: Country Studies*. Chicago: The University of Chicago Press, 62-76.

⁴ *Spain at the Polls, 1977, 1979, and 1982: A Study of the National Elections* (1985). Durham, NC: Duke University Press, 179.

⁵ Сас, О. (2016). Чи було полякам легко робити децентралізацію? *Decentralization*. <<http://decentralization.gov.ua/news/2547>>.

but also vertically – what should the state take care of, and with what better the regional authorities will handle.

Meanwhile, in Ukraine there are cases of idealization of the events associated with the democratization or revival of democracy in Poland, and lack of a careful analysis of the factors contributing to the establishment of democracy. But the problem here exists at the conceptual level. For example, in the case of transition from authoritarian to liberal democracy in the initial phase of post-socialism Polish researchers did not determine which model of democratic states they use – the USA, Swedish, Austrian, French or German. The same thing happened when Polish political thought announced the transition from a command or planned economy to a free market. There was a logical question about which model would be better for Poles: American or German? After all, the differences between them are significant. And finally, in the presentation of the transition from a one-party to a multi-party system, Polish political scientists did not even ask about what is the optimal number of parties in a multiparty system. In particular, the question of the decentralization of power included in itself, in addition to a purely theoretical, also political and cultural aspect, since a decade of domination of communist propaganda formed a settled public opinion, in which there was no place for understanding the benefits of the dispersal of power, since socialism as a command and administrative control system was kept rigid the centralization of power and the attack on centralization considered an encroachment on the existence of the state itself.

Of course, in the case of preparedness of political thought for logical substantiation and conceptualization of the necessity of decentralization and other problems of the transition period, it would be possible to minimize the complexities of the process of the formation of a new system, both in Poland and in Ukraine. Indeed, the so-called "domestic communism" as a serious brake on the path to transition to market relations would have received serious counterarguments even at the initial stage of its transformation into a rather mass phenomenon. At the same time, it is obvious that socialist structures, value orientations and concrete manifestations of human behavior would disappear at the same time.

Turning to the shocking version of the economic reform used in Poland, it should be borne in mind that it resulted in two extremely difficult social years for the Polish population. This happened the first time when liberalization of prices was carried out in January 1990, and the second time after the collapse of trade with the Soviet Union in early 1991. Subsequently, these two circumstances, somewhat later, were equally inherent in an independent Ukraine, led to the failure of state enterprises to adapt to the new situation. As a result, massive closure began with corresponding unemployment. Meanwhile, unlike Ukraine, the Poles elected a model of transparency and openness, solving most of the political issues at the local level, resulted in the relatively rapid pace of formation and development of the private sector.

The first steps of reforming local self-government in Poland took place not after the crisis, but just in the same bad for, ordinary citizens, years. Thus, in March 1990, new legislation was adopted on the functioning of the basic level of local self-government – communities, and already on May 27, the same year, local elections were held on this legislative basis. That is, the first stage of the reform took place – the community began to work. And this very first, a very difficult step has created the foundations for all further reform. Gminas are fortunate because they inherited a lot of facilities of the former state infrastructure. Another thing is that 50 thousand objects went to the ownership of the gminas, the issue was in the ability and expediency of their maintenance, providing the work of the appropriate personnel of these objects.

And then there were obstacles. In 1993, after the political vicissitudes, such as the distrust of the government on the part of the Sejm and the dissolution of both chambers of parliament and government, the pre-term parliamentary elections were held by the president. On the background of the crisis, as expected, the left parties won, they formed the government, and this government delayed the self-government reform that had already begun.

Four years later, in the fall of 1997, in the next parliamentary elections, the left parties lost and were replaced by the right political forces, which restored the process of decentralization and the reform of local self-government. In the spring of 1998, the reform of self-government in Poland continued – legislation was passed, in September 1998 there were elections to three levels of self-government – gminas, powiats and voivodships. Voivodships were enlarged from 49 to 16.

Consequently the administrative reform of Poland, since January 1, 1999, has introduced a three-tier structure of the territorial division of the voivodship-powiat-gmina. Even at the first stage of the reform, the old officials of the former administrations were against any changes and there was a danger of sabotage;

therefore, it was necessary to control the processes on the ground through the authority of the reform authorities in the voivodships¹.

A characteristic feature of the further process of democratization of Poland has become almost completely different from what happened in Ukraine. Declaring the same plans and intentions, our states quickly settled in the pace of reforms precisely because of the decentralization of power in Poland and the preservation of centralism in Ukraine, which led to the shadowing of the domestic economy, the lack of a proper legal basis for the formation of a market economy and the corresponding relations between its subjects etc. In Poland, along with the negative effects of shock therapy, there was a massive occurrence of small and medium-sized businesses. In the six months since the implementation of the stabilization program, the number of private sector employees has doubled, primarily due to the creation of a very favorable investment climate that attracted both domestic and foreign investors. The Polish authorities managed to achieve the main thing – to withstand the course taken, not to get rid of it.

At the same time, the main rate in the political aspect was made on the mass patriotism inherent in the Polish national political culture. Despite the difficulties and difficulties of the transition period, it was possible to follow the chosen course. On the other hand, a very important element of Polish reforms at the initial stage is the lack of blurriness in a political and ideological choice. In all social vicissitudes, market relations and liberal democracy remained the main goal of the country's leadership. Having become a full member of the Organization for Economic Cooperation and Development, Poland has embarked on a course of full membership in the EU. The main difference from the Ukrainian course is the decisive stake in its own potential.

Having made remarkable successes in the field of reforms, the Polish government in 1999 began implementing new aspects of the reformist course. First of all, at the same time as reforming the system of healthcare, education and social protection, the administrative-territorial reform took precedence over the principles of decentralization and subsidiarity. During these reforms, 49 voivodships were replaced by 16 larger and more independent administrative regions and a system of democratic local governance was introduced. At the same time, the level of decentralization in Poland is rather moderate, in particular, it is lower than in most EU countries. Polish gmina still depend on central government funds, since local government revenues account for only 17% of total government revenues. Local taxes are very limited, and local authorities were denied the right to conduct economic activities in areas such as speculative land-purchase. If we measure the level of financial decentralization through the share of local budgets in the total public expenditure and GDP, we will find that Poland is a country with a minimum decentralization. In 1995, local spending reached 7.01% of Poland's GDP and 19% of total government spending. Instead, in Spain, these figures were in 1987. 9.6 and 23.2%, in France in 1993 –10.0 and 32.0%².

The creation of efficient, self-sufficient local authorities has enabled the local elite to operate relatively independently of central government directives. For the first time in decades, small businessmen, local officials and directors of local state enterprises have a chance to take on independent activities. The emergence of local political leaders was facilitated, their initiatives provided comparable freedom in shaping the foundations of the life of the communities concerned. The essence of the systemic change at the local level was the right to distribute budgetary funds in accordance with preferences and needs that were determined at the local level. At the same time, the list of tasks, for which the local authorities are responsible, has undergone a significant expansion. Directly or indirectly, this made it possible to succeed at the local level in three areas: public investment; small business growth; development of civil society at the local level. This, in turn, led to a marked improvement in living conditions for members of territorial entities.

It is no coincidence that these aspects of the decentralization of power in Poland are emphasized. After all, according to the Council of Europe conclusions, domestic legislation needs to improve, first of all, "decentralization at the intermediate level", the principle of subsidiarity (the principle of real decentralization), the division of competences and powers between levels of government, local councils and state executive power, which now is slowly being made³. Ukrainian political thought

¹ Сас, О. (2016). Чи було полякам легко робити децентралізацію? *Decentralization*. <<http://decentralization.gov.ua/news/2547>>.

² Бесчастний, В.М. (ред.) (2005). *Місцеве самоврядування в Україні: проблеми та перспективи*. Донецьк: Донецький юридичний інститут при Донецькому національному університеті, 197.

³ Снісаренко, С. (2012). Принципи муніципального господарювання в країнах Європейського Союзу: досвід для України. *Демократичне врядування: науковий вісник*, 9, 25-29.

clearly answered the question: Is it possible to decentralize power? Yes, but this can be done under the condition of "close coordination with structural reforms in other areas of public life: judicial and law enforcement agencies, housing and communal services, health care, education, pensions, tax and budgetary spheres"¹.

In spite of everything, the reform of the territorial-administrative system and local self-government took place. Poland has made decentralization of power. And according to Jerzy Stepień, former chairman of the Constitutional Court of Poland, one of the "parents" of the Polish self-government reform, among all the reforms that were carried out in the country in the 1990s, it was the decentralization of power that was the best and eventually yielded the best result, although had a number of shortcomings. The main thing is that local communities have become real masters of the territories in which they live. They received the proper legal status, the bulk of local taxes, property that they can dispose of themselves. According to Jerzy Stepień, this allowed Poland to make a civilization leap towards Western democracies and to build one of the most dynamic economies in Europe for two decades. In his interview, he said: "No one will do for Ukrainians such key reform as decentralization of power. It seems to Ukrainians that before making such radical reform, it is necessary that large amounts of money come from the West. But if there is no self-government, the money will disappear"².

Consequently, we can conclude that Ukraine has so little used the successful experience of Eastern European countries, in particular, Poland in the democratization process. Therefore, Ukraine's further promotion to United Europe is possible only if the constitutional reform is completed at the level of the territorial organization of power, and in accordance with the European Charter of Local Self-Government, the transformation of power relations in the state based on the principles of subsidiarity and decentralization.

It should be noted that the Polish experience cannot be transposed mechanically to Ukrainian realities. The main obstacles to this – another administrative division, socio-economic conditions and the political situation in the country.

In the early 1990s there was no need for a change in the administrative division in Poland. The number and boundaries of the communities (about two and a half thousand) were unchanged, their essence changed. In Ukraine, in comparison with the population, today there are more than 11 thousand communities. But only 650 of them could independently and effectively perform tasks typical for the lowest level of self-government.

Starting social and economic circumstances for self-government reform are also different. In Poland, self-governing communities emerged at the time of the dismantling of a socialist state. In Ukraine, in the twenty-seven years of independence, an oligarchic-clan economy has been formed, and corruption has deep roots in all branches of government. This barrier will be difficult to overcome without strong consolidated pressure on the part of society, which should benefit the most from decentralization. It is difficult –but it is possible.

It must be remembered that, among other things, reform is a political process, and the Ukrainian political configuration is not easy. But despite the differences, the Polish experience very clearly shows which principles should be followed to create a really strong government. These principles are as follows:

- a clear division of powers between different levels and branches of government;
- the level of property and financial rights, adequate to the competence;
- judicial protection (by a truly independent court) of communities from any restriction of their rights or interference by the central government.

• The absence of any of these three components inevitably leads to the fact that the other two will also not work.

An important factor in the success and advancement of reforms was that the Polish reformers understood that there was no perfect system to which no adjustment would have to be made. The authors of the reforms understand that already during the transformation will have to introduce changes and additions to the legislation in connection with the situations and requirements that arise.

¹ Миланко, О. (2006). Чи можливо децентралізувати владу? *Юридичний вісник України*, 11, 7.

² Сас, О. (2016). Чи було полякам легко робити децентралізацію? *Decentralization*. <<http://decentralization.gov.ua/news/2547>>.

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