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## ANALYSIS OF UKRAINIAN LEGISLATION ON IMPLEMENTING GOOD GOVERNANCE BY EU LOCAL AND REGIONAL DEMOCRACY STANDARDS

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The article analyzes the Ukrainian legislation on the implementation of Good Governance by EU Local and Regional Democracy Standards. It has been established that the development of Ukrainian legislation in the context of cooperation between Ukraine and the Council of Europe provides for the harmonization and improvement of the Ukrainian legal system within the framework of European legislation (primarily the Conventions and Recommendations of the Council of Europe), as well as the expansion of the international legal framework and the accession of Ukraine to the agreements concluded in the framework of this international organization. In particular, an important document of the European Union in the framework of introducing Good Governance according to the standards of local and regional democracy of the EU is the Convention on the Participation of Foreigners in Public Life at the Local Level, which was not ratified by Ukraine and was not reflected in the Constitution, laws and by-laws of Ukraine.

**Keywords:** public administration, legislation of Ukraine, Good Governance, the introduction of Good Governance, EU Local and Regional Democracy Standards.

## АНАЛИЗ ЗАКОНОДАТЕЛЬСТВА УКРАИНЫ ПО ВНЕДРЕНИЮ ХОРОШЕГО УПРАВЛЕНИЯ ПО СТАНДАРТАМ МЕСТНОЙ И РЕГИОНАЛЬНОЙ ДЕМОКРАТИИ ЕС

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В статье проанализировано законодательство Украины по внедрению хорошего управления по стандартам местной и региональной демократии ЕС. Установлено, что развитие законодательства Украины в контексте сотрудничества Украины с Советом Европы предусматривает гармонизацию и совершенствование правовой системы Украины в рамках европейского законодательства (в первую очередь конвенции и рекомендаций Совета Европы), а также расширение международно-правовой базы и присоединение Украины к договорам, заключенным в рамках этой международной организации. В частности, важным документом Европейского Союза в рамках внедрения хорошего управления по стандартам местной и региональной демократии ЕС является Конвенция об участии иностранцев в общественной жизни на местном уровне, которая не была ратифицирована Украиной и не нашла отражение в Конституции, законах и подзаконных актах Украины.

**Ключевые слова:** государственное управление, законодательство Украины, хорошее управление, внедрение хорошего управления, по стандарты местной и региональной демократии ЕС.

## ANALIZA LEGISLAȚIEI UCRAINENE PRIVIND IMPLEMENTAREA BUNEI GUVERNĂRI ÎN CONFORMITATE CU STANDARDELE DEMOCRAȚIEI LOCALE ȘI REGIONALE

Articolul analizează legislația Ucrainei privind implementarea bunei guvernări în conformitate cu standardele democrației locale și regionale a UE. S-a stabilit că dezvoltarea legislației ucrainene în contextul cooperării dintre Ucraina și Consiliul Europei prevede armonizarea și îmbunătățirea sistemului juridic al Ucrainei în cadrul legislației europene (în principal, convențiile și recomandările Consiliului Europei), precum și extinderea cadrului legal internațional și aderarea Ucrainei la acordurile încheiate în cadrul acestei organizații internaționale. În special, un document important al Uniunii Europene în cadrul introducerii bunei guvernări în conformitate cu standardele democrației locale și regionale a UE este Convenția privind participarea străinilor la viața publică la nivel local, care nu a fost ratificată de Ucraina și nu a fost reflectată în Constituția, legile și statutele Ucrainei.

**Cuvinte-cheie:** administrația publică, legislația Ucrainei, buna guvernare, introducerea bunei guvernări, în conformitate cu standardele democrației locale și regionale a UE.

**Problem setting.** The development of Ukrainian legislation in the context of Ukraine's cooperation with the Council of Europe envisages the extension of the international legal framework and the accession of Ukraine to the treaties concluded within this international organization. The



Council of Europe's legal activities (hereinafter referred to as the "CoE") harmonize and improve the legal systems of all Member States on the basis of the common standards of the CoE within the framework of European legislation.

The CoE's work is to develop two types of legal instruments: conventions and recommendations. The Convention is an international legal instrument, which is binding in nature. It is the result of a discussion and agreement process involving major CoE bodies, in particular the Committee of Ministers and the Parliamentary Assembly. The CoE Conventions provide, primarily, the promotion of international cooperation and the development of common legal standards in the field of the Organization activity. Each State, which signs and ratifies the Convention, is obliged to comply with its provisions and to implement them in national law. There are separate mechanisms in place to monitor and monitor the CE conventions [1].

The CoE has already adopted more than two hundred conventions, most of which are open to non-Organization States, including. The CoE Conventions form a wide pan-European legal area and are the legal basis for joint action by countries in the economic, social, cultural, scientific, legal and administrative fields, as well as in the field of human rights. Thanks to Ukraine's participation in the CoE Conventions, the legal basis for Ukraine's cooperation with European countries in various spheres of life has been formed.

With regard to the recommendation, the CoE Committee of Ministers may adopt recommenda-

tions to Member States on matters, which do not require settlement through the conventions to which it has formulated a "common policy". The recommendations are non-binding, although the Statute empowers the Committee of Ministers to request the governments of the Member States to inform it of the measures taken to implement the recommendations.

The prerequisites for development are the legislation of Ukraine in the field of European integration and cooperation with the Council of Europe, establishing relations since the first years of Ukraine's independence.

**The state of the study.** The article analyzes EU regulatory documents on the implementation of Good Governance according to the standards of local and regional democracy of the EU, their implementation and adaptation in the legislation of Ukraine.

**Purpose of the article.** The purpose of the article is to analyze the legislation of Ukraine on the implementation of Good Governance according to the standards of local and regional EU democracy.

**Article main body.** Ukraine's Strategic Course on European Integration was endorsed and developed in the EU Integration Strategy approved on June 11, 1998 [2] and the EU Integration Program approved on September 14, 2000 [3], which became invalid on the basis of the Presidential Decree 398/2015 of 07/07/2015 [4]. However, the Strategy of Ukraine's integration with the EU defines the main directions of Ukraine's cooperation with the European Union (EU) and emphasized that Ukraine's national interests need to confirm Ukraine as an influen-

tial European state, a full member of the EU. As a result of the expected enlargement of the EU in the coming years - accession to the EU of Poland and Hungary - Ukraine will border with the EU, which will create a fundamentally new geopolitical situation. In this regard, a clear and comprehensive definition of the foreign policy strategy for integrating Ukraine into European political (including foreign and security policy), information, economic and legal space is required [5].

On March 5, 2007, Ukraine and the EU began negotiating a new agreement between Ukraine and the EU, and on September 9, 2008, at the Paris Summit, Ukraine and the EU reached a political agreement to conclude a future agreement in the format of the Association Agreement, based on the principles of political association and economic integration.

In accordance with the agreements reached during the EU-Ukraine Paris Summit, the Agenda was developed and approved by the parties in 2009, replacing the EU-Ukraine Action Plan and aiming to serve as a benchmark for reform in Ukraine in preparation for the implementation of the future Agreement about the association.

According to Article 11 of the Law of Ukraine "On the Principles of Internal and Foreign Policy" of July 1, 2010, one of the fundamental principles of Ukraine's foreign policy is to ensure the integration of Ukraine into the European political, economic and legal space for the purpose of EU membership [6].

Further, at the 15th EU-Ukraine Summit in Kyiv on December 19, 2011, negotiations on the future Association Agreement were com-



pleted, and on March 30, 2012, the text of the future Agreement was initiated by the Heads of Ukraine and EU negotiation teams.

The political part of the Association Agreement was signed on March 21, 2014, and the economic part - on June 27, 2014. On September 16, 2014, the Verkhovna Rada of Ukraine and the European Parliament simultaneously ratified the EU-Ukraine Association Agreement. On 1 November 2014, its provisional application was implemented. The Association Agreement between Ukraine and the EU entered into force fully on 1 September 2017, entitled "Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part" [7]. It is an international legal instrument, which at the contractual level stipulates the transition of relations between Ukraine and the EU from partnership and cooperation to political association and economic integration.

The implementation of Good Governance by EU local and regional democracy standards is carried out in accordance with the Innovation and Good Governance Strategy, which provides for the implementation of such European Union documents as, in particular: the European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities; European Charter of Local Self-Government; Convention on the Participation of Foreigners in Public Life at Local Level; Additional Protocol to the European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities; Protocol No. 2 to the

European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities for Inter-Territorial Cooperation; Protocol No. 3 to the European Framework Convention on Transfrontier Co-operation between Territorial Communities or Authorities for Euroregional Cooperation Groups (ECGs); Additional Protocol to the European Charter of Local Self-Government on the right to participate in local government affairs. The Local and Regional Democracy Standards provided by the Innovation and Good Governance Strategy for Good Governance in the EU's National, Regional and Local Governance System include the Guidelines for Democracy of Participation, including the Guidelines on Citizens' Participation in Political Decisions and the Committee Recommendations members.

Ukraine has ratified and entered into force almost all the Council of Europe documents on the implementation of Good Governance by EU local and regional democracy standards (except the Convention on the Participation of Foreigners in Public Life at Local Level). Which, in turn, is an organizational and legal mechanism for the implementation of Good Governance by the standards of EU local and regional democracy in Ukraine.

In accordance with the provisions of the Constitution of Ukraine [8], in particular Article 7 recognizes and guarantees local self-government, Article 8 recognizes and applies the rule of law. The second section of the Constitution of Ukraine enshrines the rights, freedoms and responsibilities of the individual and the citizen. The third section of the Con-

stitution of Ukraine guarantees free expression of will to voters. However, Section 9 "Territorial Structure of Ukraine" and Section 11 "Local Self-Government" require changes to fully complete the reform of decentralization of power and formation of capable local self-government in Ukraine, taking into account the provisions of the European Charter of Local Self-Government, many of which do not have proper implementation in Ukraine.

An important document of the European Union in the framework of the implementation of Good Governance by the standards of local and regional democracy of the EU is the Convention on the Participation of Foreigners in Public Life at Local Level [9], which was not ratified by Ukraine and was not reflected in the Constitution, laws and regulations of Ukraine.

The Convention aims to improve integration of foreign residents into the life of the community. It applies to all persons who are not nationals of the Party and who are lawfully resident on its territory.

The Convention provides that the Parties undertake to guarantee to foreign residents, on the same terms as to its own nationals, the "classical rights" of freedom of expression, assembly and association, including the right to form trade unions. Moreover, the Parties will make efforts to involve foreign residents in processes of consultation on local matters. Under some conditions provided by law, the rights of freedom of expression and of assembly may be restricted.

The Convention opens the possibility of creating consultative bodies at local level elected



by the foreign residents in the local authority area or appointed by individual associations of foreign residents.

The Convention provides also that the Parties may undertake to grant to every foreign resident the right to vote in local elections, after five years of lawful and habitual residence in the host country, and to stand for election.

The Parties are to inform foreign residents about their rights and obligations in relation to local public life. Parties to the Convention must keep the Secretary General of the Council of Europe informed about developments in the participation of foreign nationals in local public life.

Part 2 of the Convention provides for restrictions, in particular Article 9 specifying that during a war or other state of emergency in a state that threaten the life of a nation, the rights granted to permanent aliens of Part I may be subject to further restrictions only to the extent that they are severely determined unless such restrictions are contrary to the other obligations of the Party under international law. At the same time, any measure taken under this article will also be communicate to the Secretary General of the Council of Europe, who shall inform the other Parties. The same procedure applies when such measures are terminated.

It is important to note that the provisions of the Convention on the Participation of Foreigners in Public Life at the Local Level cannot be construed as restricting or violating any rights that may be guaranteed by the laws of any Party or any other treaty in which it participates.

**Conclusions.** Thus, the results

of the analysis of the Ukrainian legislation on the implementation of Good Governance revealed that the development of the Ukrainian legislation on the implementation of Good Governance in the context of Ukraine's cooperation with the Council of Europe provides for the harmonization and improvement of the Ukrainian legal system within the framework of European legislation (first of all the Council of Europe Convention and Recommendations), as well as the international legal framework and Ukraine's accession to the treaties concluded within this international organization, in particular, an important document of the European Union, in the framework of promoting Good Governance by EU local and regional democracy standards, is the Convention on the Participation of Foreigners in Public Life at Local Level (which has not been ratified by Ukraine and has not been reflected in the Constitution, laws and by-laws of Ukraine).

That is, in the context of Ukraine's cooperation with the Council of Europe on the implementation of Good Governance by the standards of local and regional democracy, the EU legislation requires improvement the Convention on Participation of Foreigners in Public Life at Local Level provisions in the Constitution of Ukraine and further in the normative-legal documents (after the signing and ratification of the Convention).

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