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## **DECENTRALIZATION OF PUBLIC ADMINISTRATION AS A FACTOR OF PRESERVING THE INTEGRITY OF THE SYSTEM OF AUTHORITIES**

**Abstract.** The problem of strengthening state power, improving government in modern transitional societies, including Ukraine, through decentralization is analyzed. It is concluded that such decentralization and, at the same time, the preservation of the integrity of state power ensures a rational separation of powers and the distribution of powers, the introduction of an effective system of checks and balances. In modern Ukraine, such processes, according to many specialists – political scientists, government managers, sociologists, are still not sufficiently regulated.

**Keywords:** state power, decentralization of government, distribution of power and authority, system of checks and balances, democracy, opposition.

### **ДЕЦЕНТРАЛІЗАЦІЯ ДЕРЖАВНОГО УПРАВЛІННЯ ЯК ЧИННИК ЗБЕРЕЖЕННЯ ЦІЛІСНОСТІ СИСТЕМИ ОРГАНІВ ВЛАДИ**

**Анотація.** Аналізується проблема посилення державної влади, поліпшення державного управління у сучасних суспільствах перехідного плану, в тому числі в Україні, за рахунок децентралізації. Робиться висновок, що така децентралізацію і, одночасно, збереження цілісності державної влади забезпечує раціональний поділ влади та розподіл владних повноважень, запрова-

дження дієвої системи стримань і противаг. В сучасній Україні такі процеси, на думку багатьох фахівців — політологів, державних управлінців, соціологів поки що залишаються недостатньо врегульованими.

**Ключові слова:** державна влада, децентралізація державного управління, розподіл влади і владних повноважень, система стримань і противаг, демократія, опозиція.

## ДЕЦЕНТРАЛИЗАЦИЯ ГОСУДАРСТВЕННОГО УПРАВЛЕНИЯ КАК ФАКТОР СОХРАНЕНИЯ ЦЕЛОСТНОСТИ СИСТЕМЫ ОРГАНОВ ВЛАСТИ

**Аннотация.** Анализируется проблема усиления государственной власти, улучшение государственного управления в современных обществах переходного плана, в том числе в Украине, за счет децентрализации. Делается вывод, что такая децентрализация и, одновременно, сохранение целостности государственной власти обеспечивает рациональное разделение властей и распределение властных полномочий, внедрение действенной системы сдержек и противовесов. В современной Украине такие процессы, по мнению многих специалистов — политологов, государственных управленцев, социологов пока остаются недостаточно урегулированными.

**Ключевые слова:** государственная власть, децентрализация государственного управления, распределение власти и властных полномочий, система сдержек и противовесов, демократия, оппозиция.

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**Problem statement.** Formation or transformation, modernization of any state is primarily associated with changes in the political system, political regime, system of state power. The latter, in its essence and configuration, builds an appropriate system of public administration.

These social and political processes largely determine the integrity of the state, regardless of what kind it is - unitary, federal, confederate, and the like. State power is not divided, it is only distributed among the actual existing branches of government, and even more precisely, the powers of these branches are distributed, which together makes up a single state power. Moreover, it is desirable that the division of power and

the distribution of power to be as rational, democratic and civilized as possible. This contributes to the implementation of an appropriate system of checks and balances, which makes the usurpation of power by any branch impossible. However, as Ya. Bereznyi writes in particular, “the system of checks and balances, on the one hand, promotes cooperation and mutual adaptation of the authorities, and on the other hand, creates the potential for conflicts, which are often resolved through negotiations, agreements and compromises” [1, p. 60]. But “rigid hierarchical state system — adds A. Dobroliubov, can be either totalitarian or not to be at all” [2, p. 19].

Let us stress once again the most fundamental point: “the system of

checks and balances is a rather complex mechanism for preserving the integrity of power while at the same time dividing power, dividing power between individual subjects of power. We are talking about the principles of separation of powers (principle of division of powers is the condition and guarantee of democracy, reflecting the need for a rational dissection of a single indivisible power into separate functions and laid in the Constitution of every civilized legal state" [3, p. 515]. As Thomas Jefferson, one of the founders of American democracy, emphasized, governments are designed to give people their rights, and the power of such governments can only be recognized as a fair form if people approve of the activities of their state. In the case when any form of government destroys the rights of citizens, the people have all the rights to change this form of government (power) [4, p. 142–151].

The above-mentioned specifics of the organization of state power is successfully commented by the well-known Ukrainian philosopher, political scientist, F. Rudich, who writes: "When it comes to the division of power, it should be borne in mind that power for effective functioning can not be distributed, it should be the only one. Therefore it is more accurate to talk about the distinction between the functions of different branches of government, their tasks, powers" [5, p. 15]. The distribution of power is proposed to be considered vertically: state, regional and local. [5, p. 15] This is a very common point of view, although many experts are talking about the separation of powers, the separation of powers both vertically and horizontally.

It is believed that the special model of the system of separation of powers existing in the United States for more than 200 years is the most perfect, since the legislative, executive and judicial branches of power are not only organizationally separated, but also completely independent from each other. That is, each of these branches of government has powers that allow it to control and limit other branches of government [6, p. 260]. However, the American model is more of an exception (albeit a positive one) than the norm, and most countries have different models of checks and balances.

**Analysis of recent publications on the subject.** Among special recent works devoted to the issues of this article, primarily we can highlight the works of authors, J. Berexhnyi, T. Jefferson, A. Dobroliubov, M. Obushnyo, I. Pavlenko, F. Rudyk, M. Rozumnyi, M. Vasylyk, S. Huntington, and many others.

**The purpose of the article** is to study the factors of improving public administration in modern societies of the transition plan through decentralization.

**Presentation of the main material of the study.** First, we point to the three basic foundations of the rational division of powers that are inherent in all systems of state power. These are: democracy; subsidiarity; relations between the government and the opposition. What does it really look like?

The subsidiary democracy is most closely manifested with the concepts of "democracy", "subsidiarity". T. Panchenko understands it as "a model of multi-level democracy that ensures the distribution of powers and competen-

cies at different levels of political interaction, based on the right of the lowest level to priority action in comparison with the highest (according to the principle of subsidiarity)".

We emphasize that such democracy, especially in transitional societies, in societies that are radically transformed, plays an important role not only in attracting the largest possible number of people to the processes of creation. There is an opportunity to establish a reasonable and extremely useful balance between the regulatory and organizational influence of the authorities of any level on the creative processes. At the same time, the higher the level of development of democracy and civil society, the more noticeable is the regulatory policy of the state and state power.

Now, as for the opposition, its relations with the government. The opposition in any country has actually two main functions: a) constructive opposition to the actions of the Supreme authorities and the parliamentary majority; b) representation and protection of the interests of its voters [7, p. 16].

Legally, in legal terms, the opposition, its status can be normalized constitutionally, in a separate law, in the regulations, in particular, of the Verkhovna Rada of Ukraine. The latter, incidentally, is probably the most advanced step towards the establishment of the status of the opposition. For, as German constitutionalist D. Sternberger says, "tolerance, recognition, legitimization and, finally, institutionalization of the parliamentary political opposition is the highest invention of political culture" [8].

It should be taken into account that the opposition can be systemic (con-

frontational) and non-systemic (cooperative, singing working with the authorities). In countries with "civilized" (non-systemic), such a division in power is not divided into power and opposition, but also into the majority and minority, especially if such a minority under appropriate conditions is able to form a government, actually grow into a majority.

In each country, the rights of the opposition are different. So the opposition has the largest rights, according to experts, in Portugal: 1) the right to obtain information about the course of public rights of great importance; 2) guarantees for appropriate representation in parliamentary commissions (according to the number of factions); 3) the right of the opposition party to speak, etc. [9].

In Ukraine, since 1998, more than 15 draft laws on the opposition have been submitted, but none of them has been adopted, and the Constitution of Ukraine, as it is known, does not prescribe the status of the opposition. And this is despite the fact that each opposition-in the long term power, in the first place is the government of a particular country. If we talk about cooperation between the government and the opposition in the form of a large coalition, in Ukraine today such a phenomenon of power is virtually impossible.

We emphasize that the ratio of power and opposition is more important than a sign of balance and balances, because "the presence of strong opposition in the state indicates the political health of the system, creates conditions for pluralism of ideas, civilized competition, provides control over the actions of officials".

Many experts-political scientists, sociologists, etc., believe that the amendments to the Constitution of Ukraine adopted on December 8, 2004 rather contributed to the emergence of an inefficient, unbalanced form of power in Ukraine. So M. Rozumnyi believes that since then, the state-power regime in Ukraine is characterized by:

- inconsistency of functions and powers of the President, government, Parliament;
- vague distinction between the powers of the President and the Prime Minister of Ukraine in the sphere of Executive power;
- coordinated activities of power relations and the political opposition [10, p. 10].

Let us consider the system of checks and balances at the highest level of government.

#### **“President–Parliament”**

In most countries, the President is compensated by bicameral Parliament, while the President can dismiss only the lower house of Parliament (for example, in France), and in the United States – in general under the Constitution the President has no such right. In Ukraine today the Parliament is not bicameral and the President cannot dismiss it.

#### **“President–Government”**

Here we are talking about the appointment, resignation of the government, control over its activities by the President. In different countries it is arranged differently. In the US, for example, the President is the only head of the executive power, although there is a government in the United States, and the ambassadors, consuls, judges of the Supreme Court, all other officers

are appointed after the consent of the Senate. In Poland, the President also appoints the head of Government and Ministers. Seim, however, requires the government to submit for its consideration within two weeks the program of the Government’s activities for approval. If such a program is not approved by the Seim, the Government automatically resigns and after that the head of Government and its composition are elected by the Seim already. In addition, Seim has the right to dismiss a separate Minister. In France, Italy, the President also appoints and dismisses the head of government and the staff.

In Ukraine, as it is well-known, the President appoints with the consent of the Verkhovna Rada of Ukraine the Prime Minister of Ukraine, terminates the authority, takes a decision on his resignation (article 106 of the Constitution of Ukraine) [11, p. 16]; appoints the Prime Minister of Ukraine, members of the Cabinet of Ministers of Ukraine and heads of local state administrations and terminates their authority in these positions (article 106). Therefore, in the above aspects, the power of the President of Ukraine is more significant than the powers of the Verkhovna Rada of Ukraine.

#### **“State power– local self-government”**

In fact, in all countries of the world, local self-government is completely independent and in no way controlled by public authorities, Parliament or the President. As, for example, the Constitution of Poland suggests, “the territorial structure of the Republic of Poland provides for the decentralization of public power” (article 15 of the Constitution of Poland). If the decisions of

the local authorities do not suit the citizens or the state authorities in a certain way, they can be appealed in court. In Ukraine, this situation is the opposite—more and more attempts are being made to put local self-government under the absolute control of state power, although Art. 140 of the Constitution of Ukraine proclaims: “Local self-government is the right of the territorial community—the inhabitants of the village or voluntary Association in the rural community of residents of several villages, towns and cities—to independently resolve issues of local importance within the Constitution and Laws of Ukraine”.

#### **“The government and the opposition”**

In this case, the remarks by G. Oberreuter are very appropriate, and he writes: “We can talk about a civilized opposition only when the contradictions between the majority and minority are based on a fundamental unity on this and the other side of the alternatives and do not endanger the foundations of the constitutional, political and legal systems” [12, p. 134].

In modern Ukraine, for all the years of independence, it has not yet been possible to arrange civilized relations between the government and the opposition, which would resemble, in the words of the famous American political scientist S. Huntington, “the mechanism of political swings”, that is, a civilized economic and political balance [13].

A lot of experts, politicians, in this case are inclined to an exclusively two-party political system of society, although there are many countries where civilized interaction between the authorities and opposition exists without bipartisanship. Most likely,

there are grounds to agree with the reasoned opinion of O. Radchenko, who believes that three objective conditions lead to civilized formation and development of a democratic political regime: 1) a clear constitutional engineering that creates a civilized, democratic balance of branches of government; 2) development of written and unwritten rules of political activity, allowing each of the political parties to protect both the interests of certain social groups and the socio-economic stability of society as a whole; 3) the development of tolerance, consensus in the political relations of the subjects of the political process while ensuring the fundamental social values (see in detail: Alexander Radchenko. The system of checks and balances of the branches of power as an integral imperative of the Ukrainian political Council // Public policy and strategic management / Alexander Radchenko. — 2008. — p. 88–95).

**Summary.** Thus, we reach the following conclusions.

1. The system of checks and balances in the process of separation of powers is an absolutely necessary basis for a civilized, democratic arrangement and ensuring the functioning of state power as an integral phenomenon in the interests of a person (citizen) of the group, society as a whole.

The establishment of a democratic system of separation of powers through a system of checks and balances is a real ambush of democratic decentralization of power, which is provided by: a) constitutional and legal regulation of relations between the main branches of government; b) the establishment of effective, constructive relations between

the government and the opposition, between all the subjects of political and social processes (political parties, public organizations, associations, etc); c) development of local self-government, civil society, civil and political culture based on consensus, tolerance and fundamental social values.

2. Ukraine today is a unitary state, but it is not just centralized, but in a certain way (at least before the illegal annexation of the Russian Federation of the Autonomous Republic of Crimea) decentralized: some administrative-territorial units are endowed with self-government rights, and may even create administrative autonomy. So, most likely, with further democratic development, strengthening of self-governing principles of individual territorial communities and the overall increase of the role of civil society in the management of public affairs, Ukraine will increasingly become a decentralized unitary state, where the only indivisible state power will exist.

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