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VOLUNTARY AMALGAMATED TERRITORIAL COMMUNITY AS A COMPONENT OF THE INSTITUTION OF DELEGATION OF POWERS IN ADMINISTRATIVE LAW OF UKRAINE

Abstract. Purpose. The purpose of the article is to clarify the position of a voluntary amalgamated territorial community as a component of the institution of delegation of powers in administrative law of Ukraine based on a systematic analysis of administrative law theory and practical activities of legal entities.

Results. The article defines the institution of delegation of powers as an important element of the system of public administration and public management, which has a significant impact on the efficiency of management, the level of decentralisation of power and the quality of public services, and which in its essence consists in the transfer of powers from one entity to another with the enshrinement of appropriate rights, obligations, conditions and guarantees, in order to implement certain functions. It is established that a voluntary amalgamated territorial community in Ukraine is a crucial component of the institution of delegation of powers in administrative law, which is based on the principles of local self-government enshrined in the Constitution of Ukraine and other regulations. A voluntary amalgamated territorial community is a democratic form of organisation of citizens that interacts with the state in implementing local self-government. Its position implies that the community is free to unite for joint decision-making and effective management of local issues. It is found that pursuant to the Constitution and laws of Ukraine, a voluntary amalgamated territorial community receives delegated powers to independently resolve issues relating to its territory, which includes regulation and management of a significant part of public affairs in the interests of the local population. The uniqueness of a voluntary amalgamated territorial community is that this organisation is formed on the initiative of citizens and can determine its priorities and objectives.

Conclusions. The delegation of powers involves the active participation of citizens and their elected representatives, which ensures that decision-making is democratic. It is emphasised that the activities of a voluntary amalgamated territorial community are important for ensuring effective governance at the local level and meeting the interests and needs of the community. By ensuring a high level of self-governance and citizen participation, a voluntary amalgamated territorial community becomes a key link in the system of delegation of powers, contributing to the development and prosperity of local communities within the framework of the law and constitutional provisions.

Key words: administrative centre, administrative procedures, administrative and legal status, administrative and legal relations, budget, state support, voluntary amalgamated territorial community, local authorities, powers, procedure.

1. Introduction

The issue of delegated powers is of paramount importance for all state and legal reforms, as it directly affects the process and scope of exercising citizens' rights and freedoms, since the status of exercising human rights and freedoms directly depends on the efficiency of the system of state authorities and the system of local self-government bodies (Bublyk, 2005).

One of the most complex entities of delegation of powers in the administrative law of Ukraine is a voluntary amalgamated territorial community. However, practical issues arising in the activities of territorial communities necessitate general research on understanding the essence and principles of delegation of powers.

The general and specific administrative and legal principles of organisation and func-

tioning of a voluntary amalgamated territorial community have been the subject of research by the following scholars: B. Andrushkiv, K. Anisimov, A. Berlach, Ya. Bilous, E. Borodin, O. Holynska, I. Dziuba, V. Dreshpak, O. Yevdokimov, N. Kyrych, Y. Kovalchuk, V. Kravchenko, I. Krykavska, M. Latynin, V. Malookyi, A. Matvienko, N. Mishyna, V. Nebeliuk, S. Polarush, and others.

However, the current problems of optimising the use of resources and providing quality services at the local level in Ukraine underline the relevance of research in the field of amalgamated territorial communities.

The purpose of the article is to specify the position of a voluntary amalgamated territorial community as a component of the institution of delegation of powers in administrative law of Ukraine based on a systematic analysis of administrative law theory and practical activities of legal entities.

2. Specific features of ensuring the delegation of powers

Delegation (from Latin *delegare* – to entrust, transfer) was understood as the assignment of a part of powers from the holder of primary rights – the delegator – to the person who accepts these powers – the delegate. Delegation in public law at that time was not of a consensual nature, it required the mandatory adoption of a special law (*imperium lex curiata de iurisdictione*) confirming the act of delegation. The delegator had the right to control the exercise of the delegated powers by the delegate. The holder of the delegated powers could not delegate them further in accordance with the *delegatus non potest delegare* rule (Bartoszyk, 1989; Tulyk, 2016).

According to H. Bublyk, delegation of powers is the process of transferring the delegating entity's own powers to the delegated entity, which is based on the free will of both parties to the delegation, is carried out for the most effective exercise of these powers, is accompanied by the transfer of appropriate financial and/or material resources and is formalised by concluding an administrative agreement or a relevant legal act (Bublyk, 2005). The legal nature of delegated powers defines the mandatory features of delegated powers, including: a) delegation of powers shall be based on the free will of both parties to the delegation; b) delegation of powers shall be accompanied by an administrative agreement; c) delegation of powers shall be necessarily accompanied by transfer of financial and/or material resources to ensure proper exercise of delegated powers by the delegated entity; d) re-delegation (sub-delegation) of powers is not allowed, as it contradicts the goals and intentions of the delegating body;

e) the delegated entity shall be legally responsible for proper exercise of delegated powers (Bublyk, 2005).

A. Novak establishes that delegation of powers can be defined as one of the ways of transferring power from the national and/or regional and/or local level of public administration to the level of local self-government, and therefore can be considered a way of decentralisation of power (Novak, 2017).

V. Davydova has improved the theoretical and methodological approach to cognition of both the process of ensuring delegation and "delegation" itself as a special form of interaction of actors in administrative relations, the specific feature of which is the understanding that the organisational and legal aspect is only one element of the system of scientific and practical support for the process of delegation of powers, which significantly expands the possibilities for further scientific cognition of the delegation processes by means of interdisciplinary analysis, modelling and application of cross-scientific methods of cognition (Davydova, 2021).

O. Tereshchuk considers delegation of powers to be an administrative and legal institution, the content of which is the process (legal relations) of transferring public administrative powers of the delegating entity to another participant (public administration body, individual or legal entities of private/public law) for a specified period with mandatory resource provision (financial/property), relevant control and supervisory restrictions and responsibility, which is exercised in the form of an agreement or act. The scientist also identifies the main characteristics of delegation of powers which constitute the content of this concept: 1) Delegation of powers is an institution of administrative law; 2) Initiation of delegation of powers requires justification of its expediency; 3) The imperative or discretionary nature of delegation is established in a legislative provision; 4) The general purpose of using the institution of delegation of powers is to ensure effective, high-quality public interest / public administration; the purpose is justified and detailed in a specific case of delegation; 5) The content of delegation is the process of transferring powers; 6) This process involves entities with a legal status characterised by certain features: for example, the competence of the delegating entity and compliance with the regulatory requirements of the potential entity with delegated powers (executor of delegated powers); 7) The subject of delegation is the powers of public administration; 8) Delegation is usually for a fixed term, but there is still an indefinite delegation; 9) Additional guarantees (financial/property support) and restric-

tions (control/responsibility) are transferred along with the delegated powers (Tereshchuk, 2016).

Therefore, the institution of delegation of powers is an important element of the system of public administration and public management, which has a significant impact on the efficiency of management, the level of decentralisation of power and the quality of public services, and which in its essence consists in the transfer of powers from one entity to another, with the establishment of appropriate rights, obligations, conditions and guarantees, in order to implement certain functions.

Good delegation always has two sides. The first is knowing what to delegate and to whom. The other side of delegation is the form or method of assignment. Delegation of powers is preceded by considerable preparatory work to be performed by the delegating body. It involves determining why, to whom, how to delegate powers, what benefits are to be derived from it (Tulyk, 2016).

Thus, a logical question arises as to how a voluntary amalgamated territorial community is a component of the institution of delegation of powers? In our opinion, the content of such a component can be traced back to the essence of the right to local self-government.

3. Regulatory and legal framework for the delegation of powers

The European Charter of Local Self-Government defines local self-government as the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute (European Charter of Local Self-Government, 1985).

According to the Constitution of Ukraine, local self-government is the right of a territorial community – residents of a village or a voluntary association of residents of several villages, towns and cities – to independently resolve issues of local importance within the limits of the Constitution and laws of Ukraine. The particularities of local self-government in the cities of Kyiv and Sevastopol are determined by separate laws of Ukraine. Local self-governing shall be exercised by a territorial community in compliance with a procedure established by law, both directly and through local self-govern-

ment bodies: village, settlement and city councils, and their executive bodies (Constitution of Ukraine, 1996).

Pursuant to the Law of Ukraine “On Local Self-Government in Ukraine”, local self-government in Ukraine is the right guaranteed by the State and the real ability of a territorial community – residents of a village or a voluntary association of residents of several villages, towns, or cities – to independently or under the responsibility of local self-government bodies and officials to resolve issues of local importance within the framework of the Constitution and laws of Ukraine. Local self-government is exercised by territorial communities of villages, towns and cities both directly and through village, town and city councils and their executive bodies, as well as through district and regional councils representing the common interests of territorial communities of villages, towns and cities. Citizens of Ukraine exercise their right to participate in local self-government by virtue of their membership in the respective territorial communities. Any restrictions on the right of citizens of Ukraine to participate in local self-government based on their race, skin colour, political, religious and other beliefs, gender, ethnic and social origin, property status, length of residence in the respective territory, language or other characteristics are prohibited (Law of Ukraine On Local Self-Government in Ukraine, 1997).

Therefore, the Constitution of Ukraine, international instruments and relevant laws of Ukraine provide for the delegation of powers to exercise the right to local self-government to voluntarily amalgamated territorial communities.

Accordingly, a voluntary amalgamated territorial community is a component of the institution of delegation of powers to implement the general right to local self-government. Such powers are delegated to a voluntary amalgamated community by the citizens of Ukraine, as holders of the right to local self-government, and by the state, which provides the voluntary amalgamated community with appropriate legal instruments and guarantees its activities.

Generally binding state powers that should be delegated to all territorial communities of the respective level should be fixed for an unlimited period. Although the legislation does not clearly define mandatory delegated powers, they have always been present in the competence of local governments. The necessity and appropriateness of this follows from the nature of social relations in the implementation of particularly important national tasks. Nowadays, some state powers are vested in local self-government bodies as mandatory (Tulyk, 2016).

4. Conclusions

In general, a voluntary amalgamated territorial community in Ukraine is an important component of the institution of delegation of powers in administrative law, which is based on the principles of local self-government enshrined in the Constitution of Ukraine and other regulations. A voluntary amalgamated territorial community is a democratic form of organisation of citizens that interacts with the State in implementing local self-government. Its position implies that the community is free to unite for joint decision-making and effective management of local issues.

Following the Constitution and laws of Ukraine, a voluntary amalgamated territorial community receives delegated powers to independently resolve issues relating to its territory, which includes regulation and management of a significant part of public affairs in the interests of the local population. The uniqueness of a voluntary amalgamated territorial community is that this organisation is formed on the initiative of citizens and can determine its priorities and objectives. The delegation of powers involves the active participation of citizens and their elected representatives, which ensures that decision-making is democratic.

It is emphasised that the activities of a voluntary amalgamated territorial community are important for ensuring effective governance at the local level and meeting the interests and needs of the community. By ensuring a high level of self-governance and citizen participation, a voluntary amalgamated territorial community becomes a key link in the system of delegation of powers, contributing to the development and prosperity of local communities within the framework of the law and constitutional provisions.

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ДОБРОВІЛЬНА ОБ'ЄДНАНА ТЕРИТОРІАЛЬНА ГРОМАДА ЯК СКЛАДОВА ІНСТИТУТУ ДЕЛЕГУВАННЯ ПОВНОВАЖЕНЬ В АДМІНІСТРАТИВНОМУ ПРАВІ УКРАЇНИ

Анотація. Мета. Мета статті полягає в тому, щоб на основі системного аналізу теорії адміністративного права та практичної діяльності суб'єктів права розкрити становище добровільної об'єднаної територіальної громади як складової інституту делегування повноважень в адміні-

стративному праві України. **Результати.** У статті визначено інститут делегування повноважень як важливий елемент системи державного управління та публічного адміністрування, який має значний вплив на ефективність управління, рівень децентралізації влади і якість надання публічних послуг, що за своїм змістом полягає в передачі повноважень від одного суб'єкта до іншого зі встановленням відповідних прав, обов'язків, умов і гарантій для реалізації певних функцій. Встановлено, що добровільна об'єднана територіальна громада в Україні є важливою складовою інституту делегування повноважень в адміністративному праві, що базується на принципах місцевого самоврядування, закріплених в Конституції України й інших нормативних актах. Добровільна об'єднана територіальна громада являє собою демократичну форму організації громадян, яка взаємодіє з державою в реалізації місцевого самоврядування. Її становище полягає в тому, що громада вільно об'єднується для спільного прийняття рішень та ефективного управління питаннями місцевого значення. Розкрито, що згідно з Конституцією та законами України добровільна об'єднана територіальна громада отримує делеговані повноваження для самостійного вирішення питань, які стосуються її території, що передбачає регулювання й управління суттєвою частиною публічних справ в інтересах місцевого населення. Унікальність добровільної об'єднаної територіальної громади полягає в тому, що ця організація формується за ініціативою громадян і має можливість визначати свої пріоритети та завдання. **Висновки.** Делегування повноважень відбувається через активну участь громадян та їх виборчих представників, що забезпечує демократичний характер прийняття рішень. Підкреслено, що діяльність добровільної об'єднаної територіальної громади є важливою для забезпечення ефективного управління на місцевому рівні та відповідності інтересам і потребам громади. Забезпечуючи високий рівень самоврядування й участі громадян, добровільна об'єднана територіальна громада стає ключовою ланкою в системі делегування повноважень, сприяючи розвитку та процвітанню місцевих громад у межах закону та конституційних норм.

Ключові слова: адміністративний центр, адміністративні процедури, адміністративно-правовий статус, адміністративно-правові відносини, бюджет, державна підтримка, добровільна об'єднана територіальна громада, місцева влада, повноваження, порядок.

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