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Comments on the Proposals for Improving the Territorial Organisation of Power in Ukraine

The present paper was prepared by the Directorate of Democratic Institutions, Directorate General of Democracy and Political Affairs, in co-operation with Prof. Gérard Marcou, University Paris 1 Panthéon-Sorbonne, Director of GRALE (Research Group on Local Administration in Europe), France.

Introduction

These comments were requested by the Secretariat of the Cabinet of Ministers of Ukraine (Department of Local Government) within the framework of the Council of Europe (CoE) Programme to Strengthen Local Democracy in Ukraine (2010-2013, funded by the Swedish International Development Cooperation Agency Sida).

The Council of Europe Programme provided assistance in modelling the improved territorial organisation of power at local level, which was followed by a working discussion in Kyiv on 7 July 2011.

According to the submitted documents, based on the analysis of the situation in several *oblasts*, the evolution of the network of the territorial State administrative bodies for about 10 years, reflects three negative tendencies:

- a sharp increase of the personnel employed in these territorial bodies of the state administration;
- the multiplication of sub-regional or inter-district (*rayon*) constituencies for the organisation of the network of the territorial bodies of the State administration;
- an increasing discrepancy of these constituencies with each other and with the *rayon* centres.

The recommendations of CoE experts could be briefly summarised as follows:

- The government should reconsider the territorial organisation of the State administrative bodies at the district and regional levels, and the distribution of tasks among them, taking stock of the experience of other European countries and CoE recommendations
- Perform the audit of state administrations and their current functions
- Differentiate state administrations according to their functions, and to how often their services are used by the citizens
- Consider creating wider *rayons*
- Transfer the LSG functions from state administrations to LSG bodies
- Strengthen authority of the oblast state administrations

Three kinds of issues were raised during the discussion: budgetary, functional and organisational.

I. Budgetary issues

According to tables attached to the proposals, the personnel employed by the state administration have increased by 40% since 2001. The strongest increase is in the personnel of the territorial bodies of various ministries (+54%), while the personnel of the State bodies of the executive power at the regional and district level has remained relatively stable (+12.5%). During the same period of time, the personnel of local self-government bodies has increased by about 50%, but remains at less than 100,000 employees, compared to about 225,000 employed in the territorial branches of central bodies of the State administration and in the territorial bodies of the executive power.

These statistics include only the personnel with managing and specialist functions in the administrative bodies. Following the statistical categories inherited from the Soviet times, they do not include the ancillary personnel (drivers, cleaners), the specialised personnel of budgetary institutions (teachers, nurses), workers of specific services (road maintenance). All these personnel are nevertheless paid from the State and local government budgets.

If there is a need to assess the functions performed with regard to personnel employed, the evaluation should not be limited to the administrative or specialist personnel, but should include as well the personnel employed in the direct service provision. This is especially important to measure the regional discrepancies in the level of service provision. From a budgetary perspective, it would be necessary to carry out a full review of the human resources involved in the various branches of the State administration, in order to identify potential savings and inequalities to be compensated.

The sharp increase in the personnel employed in the territorial branches of the ministries suggests a thriving over-centralisation on a sectoral basis. This is detrimental both to the development of the responsibilities of local self-government bodies and of the necessary coordination between all branches of the state administration at the local level.

In order to reconsider the distribution of human resources and tasks, and to rationalise the organisation of the State administration at the local level, it would be necessary to carry out an independent audit of the tasks performed by each unit of the State administration at the oblast and at the district or inter-district level. Such an audit would help discovering duplications and useless paperwork.

II. Functional issues

As recognised in the Proposals, the review of the tasks should result in a transfer of some tasks between State administrative bodies, while other tasks should be transferred from State bodies to self-government bodies.

Therefore, the analysis of the present organisation of the network of the State administrative bodies should be linked to the Decentralisation Strategy, since the tasks considered to be devolved upon local self-government bodies will have a strong impact on local bodies of the State administration and, in particular, should determine transfers of personnel from the latter to local self-government bodies.

Another issue is the relationship between the territorial branches of the ministries or other central State bodies on one hand, and the local State bodies of the executive power at the regional and district levels, on the other hand. With the strengthening of the territorial branches in personnel and the withering away of their constituencies from the *rayon* borders towards all kinds of sub-regional areas, the coordination function of the head of the local body of the executive power will become always more difficult if not impossible. Such an evolution is very negative, for two main reasons. First, the discrepancies between specialised constituencies make it impossible to look for the mutualisation of resources and means between services in order to obtain economies of scale (for example for premises, cars, ancillary personnel). Secondly, the implementation of the central government policies has to be driven in such a way as to avoid conflicts between sectoral policies and reflect the unity of the State policy. The discrepancies in the territorial organisation of the various government branches will make impossible to ensure the inter-ministerial consistency of the implementation of the central government policies.

To overcome this problem, there is a need to reform the function of Head of the local State bodies of the executive power. At present, this function is very politicised; many officials are former mayors or members of parliament. This politicisation undermines the legitimacy of the Head of the local body of the State administration with regard to territorial branches of the ministries. The way to overcome this problem is the professionalisation of the function: the heads of the local State administration bodies must be higher civil servants with a career. In France, the ENA did succeed in professionalising the Prefect function since 1945, which gave them authority over heads of territorial branches of ministries. Recent reforms following the transfer of competencies upon local self-government bodies made it possible to reinforce the powers of the prefects over the territorial branches of ministries and to delegate important implementation responsibilities to them.

III. Organisational issues

The main concern expressed in the Proposals and in attachments on case studies is the development of differentiated networks according to the branches of the State administration, based on different areas, which results in the fragmentation of the State policies.

Nevertheless, it is necessary to make distinctions according to functions. Some of them require territorial divisions determined by physical requirements: for example for forestry, water resource management, electricity transmission networks. The weakness of the Proposals and attachments is that they do not distinguish according to the nature of the functions requiring a territorial network, in particular with those functions corresponding to an economic or technical organisation.

However, it has to be recognised that, subject to some exceptions, the networks of territorial units of the different branches of the State administration have to be based on the same constituencies. Additionally, CoE experts recommend moving towards greater integration of these units under the authority of the Head of the local State administration.

The development of sub-regional constituencies larger than the *rayon* in all sectors suggests that the present *rayon* is now too small to accommodate the needs of the current territorial State administration. At present there are 488 *rayon* in Ukraine, and additionally 170 cities of regional subordination. The spontaneous and chaotic development of the branches of the State administration should be used as a material to devise a new territorial framework based on larger *rayon*, and determine a new hierarchy of centres for service provision. The development of new municipal units based on cooperation or consolidation of existing territorial communities (*hromadas*) should accompany this territorial restructuring.

In this process, the *oblast* level should be recognised as the key intermediary level for the implementation of central government policies, and the concentration at that level of the management and expertise capacities of the State administration, whereas a number of tasks and human resources of the *rayon* State administration could be shifted to local self-government bodies.

Such strategic decision would help alleviating administrative costs reflected in the increase of the State personnel since 2001.