

CONTRADICTIONS IN THE FUNCTIONING OF STATE EXECUTIVE BODIES AND LOCAL SELF-GOVERNMENT

Vadym Sobolev

PhD in Economics, Associate Professor, Associate Professor of Department of Public Administration, Public Administration and Economic Policy, Simon Kuznets Kharkiv National University of Economics, Kharkiv, Ukraine

Scientific research into the problems of interaction between the state and local self-government bodies reveals various forms, methods, and mechanisms of state influence on the sphere of local self-government, which, in turn, allows us to conclude that it is possible to single out in the system of internal functions of the Ukrainian state the functions of state recognition, establishment, and guarantee of local self-government, which in practice is implemented in the following areas and forms: regulatory and legal regulation of local self-government; state policy in the field of local self-government development; state support for territorial communities; state protection and guarantee of local self-government; state control; legal responsibility of subjects of municipal legal relations, etc. To implement this function, state authorities are endowed with the appropriate powers in the sphere of local self-government.

Such powers can be classified on various grounds, in particular, according to the status of the state authorities that exercise them, taking into account the areas of their implementation by state authorities, their content, etc.

The subjects vested with powers in the sphere of local self-government are the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine and other executive bodies, courts and other specialized bodies specially created by the state in the sphere of promoting the development of local democracy.

By type, these powers are normative-regulatory and specifically-regulatory. The latter provide control, systematically carried out by the state of lawful actions, for which various means are used: issuance of legal acts, statistical reporting, methodological recommendations, etc. [1].

Let us consider in more detail the main issues that local state administrations and local self-governments solve.

State administrations solve the following:

- 1) ensuring legality, protection of rights, freedoms and legitimate interests of citizens;
- 2) socio-economic development of the relevant territories;
- 3) budget, finance and accounting;
- 4) property management, privatization, promotion of entrepreneurship development and implementation of state regulatory policy;
- 5) industry, agriculture, construction, transport and communications;
- 6) science, education, culture, health care, physical education and sports, family, women, youth and minors;
- 7) land use, natural resources, environmental protection;

ECONOMICS
THE IMPACT OF MODERN DIGITAL TECHNOLOGIES AND DEVELOPMENTS ON THE
FUTURE OF EDUCATION

- 8) foreign economic activity;
- 9) defense work and mobilization training;
- 10) social protection, employment of the population, labor and wages [2].

Local self-government decides on the following issues:

- 1) formation of the executive committee of the council, determination of its size, approval of personnel; introduction of changes in the composition of the executive committee and its dissolution;
- 2) adoption of a decision on holding a local referendum;
- 3) adoption of decisions on granting self-organization bodies of the population with separate own powers of local self-government bodies, as well as on the transfer of funds, material and technical and other resources necessary for their implementation;
- 4) making decisions on joining associations or joining associations, other forms of voluntary associations of local self-government bodies and on leaving them;
- 5) approving programs for the socio-economic and cultural development of the relevant administrative-territorial units, target programs on other issues of local self-government;
- 6) approving the local budget, making amendments to it;
- 7) approving the report on the implementation of the relevant budget;
- 8) establishing local taxes and fees and the size of their rates within the limits specified by law;
- 9) making decisions on issuing local loans;
- 10) making decisions on granting, in accordance with current legislation, benefits for local taxes and fees;
- 11) making decisions on alienation in accordance with the law on communal property; approving local privatization programs, as well as a list of communal property objects that are not subject to privatization;
- 12) resolving, in accordance with the law, issues of regulating land relations;
- 13) granting, in accordance with the legislation, consent to the placement of new facilities on the territory of a village, town, city, the sphere of environmental impact of which, according to current regulations, includes the relevant territory;
- 14) establishing, in accordance with the legislation, rules on the improvement of the territory of a settlement, ensuring cleanliness and order in it, trade in markets, and maintaining silence in public places, the violation of which provides for administrative liability;
- 15) approving the charter of a territorial community;
- 16) determining the scope and limits of powers exercised by district councils in cities (if they are established) and their executive bodies in the interests of territorial communities of districts in cities [2].

The analysis of the provisions of the current legislation shows that the list of powers delegated to local self-government bodies by the executive authorities is quite extensive. These powers relate to socio-economic and cultural development, planning and accounting, budget, finance and prices, municipal property, household and trade services, public catering, transport and communications, construction, education, health care, culture, physical education and sports, regulation of land relations and

environmental protection, social protection of the population. Some of these powers coincide with the powers of state administrations. Let us consider this issue in more detail [1].

In fact, the separation of functions and powers of the two branches of government is aimed at ensuring the conditions for their separate functioning. But the presence of broad adjacent competence makes this ineffective. Today, certain contradictions can be traced in the interaction of state administrations and local self-government bodies.

Firstly, analyzing the legislative framework, it turns out that the powers of state administrations are completely duplicated by local self-government bodies. The experience of foreign countries regarding a clear delimitation of management objects has not been sufficiently used in the development of laws on state administrations and local self-government. Thus, we are talking about the so-called contradictions in the sphere of competence.

Secondly, it should be said about the principle of separation of powers, when local self-government bodies, while not being executive bodies, have the rights and perform the functions of executive power.

Thirdly, state administrations are controlled and accountable to councils of the appropriate level, the councils control the implementation of complex programs, budget execution, etc. In addition, they hear reports from the head of the state administration, his deputies, heads of departments, departments, and other structural units of the state administration. At the same time, the city, town, village mayor is accountable only to the territorial community, and the council is controlled only to the extent that the deputies are accountable to their voters in the districts.

Fourthly, there are contradictions in the sphere of delegation of powers. According to the legislation, the state delegates part of its functions to local self-government bodies. As a result, the councils resolve issues not only of a local nature, but also issues of state policy, since the law does not indicate the specific features of the concept of “issues of local importance”, which allows it to be interpreted depending on the situation. District and regional councils delegate a number of powers to local state administrations. In the absence of an executive body in the district and regional council, this leads to the transformation of local state administrations into executive committees of councils.

Fifthly, according to the legislation, the village, town mayor is elected by members of the territorial community. The chairman of the regional and district council is elected at a session from among the deputies. The head of the local state administration is appointed by the President of Ukraine upon the proposal of the Cabinet of Ministers of Ukraine, however, the Law “On Local Self-Government in Ukraine” has granted the council the right to nominate a candidate for the position of head of the local state administration, as well as the right to express no confidence in him. In the event of no confidence, the President of Ukraine dismisses the head of the state administration from office. Therefore, the head of the local state administration is strictly dependent on the council, and in his activities must primarily take care of the needs of the council, not the state.

Thus, at present, the powers between the executive authorities and local self-government bodies are not properly distributed, there is their unjustified centralization, duplication, and groundless delegation. All these factors complicate the management system, lead to conflicts between representatives of these state bodies, lead to the creation of duplicate management structures, excessive financial costs and, as a final result, a decrease in the efficiency of resolving local affairs.

References

1. Демиденко В. О. Місце й роль органів місцевого самоврядування в забезпеченні національної безпеки України / В. О. Демиденко // Науковий вісник Національної академії внутрішніх справ. – 2018. – № 3 (108). – С. 238–249.
2. Про місцеве самоврядування в Україні : Закон України від 21.05.1997 р. № 280/97-ВР . Відомості Верховної Ради України. 1997. № 24. Ст. 170