

CLOSER LOOK ON ONGOING REFORMS IN EASTERN PARTNERSHIP COUNTRIES¹:

UKRAINE: STOCK TAKING OF PROGRESS AND REMAINING
CHALLENGES OF DECENTRALIZATION PROCESS
(Based on examples of Mykolaiv, Ternopil and Dnipropetrovsk region)
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Summary of the findings.²

Decentralization in Ukraine began in 2014 when the Government approved the main conceptual document - *the Concept of Reforming Local Self-Government and Territorial Organization of Power*. Subsequently, the Plan of Measures for Implementation of Decentralization of Power was approved and then updated in 2016. To implement the plan, it was necessary to make several amendments to the Constitution of Ukraine, the package of which was prepared by the expert environment. However, the amendments were not supported by the Verkhovna Rada of Ukraine; therefore, the Government began to implement the reform within the framework of the current Constitution.

Overview of the reform processes and key conclusions

The reform is based on voluntary consolidation of cities, towns and villages in united territorial communities (UTCs). The growing number of these communities is the main positive trend of the reform, as 692 UTCs with the population of about 6 million people have been established in Ukraine over the 3 years of reforms. Fiscal decentralization has set new rules for the allocation of taxes to local budgets. A total of 60 percent of personal income tax, 100 percent of state duty, and 100 percent of the fees for administrative services are now paid into local budgets. Local administrations have gained the right to levy a local property tax and a local excise tax on alcohol, tobacco, and fuel. They are also allowed to borrow larger sums than before from the central government and banks to finance their spending projects.

In accordance with the medium-term plan of priority actions of the government, in 2020 decentralization reform will be completed. By this time, local councils at the basic level should be 100% merged into capable territorial communities with full and irrevocable redistribution of powers between local governments and state executive bodies.

¹ Based on input and analyses of information collected by ECEAP local civil society/area experts

² Detailed comprehensive analysis report is available at request

General

- The positive consequences of the reform so far include improving the governance structure, attempting to reduce the level of potential political corruption through direct inter-budgetary relations between the centre and the communities, activation of community members. The reform is based on voluntary consolidation of cities, towns and villages in united territorial communities (UTCs) and the progress of united UTCs compared to those who have not done so is noticeable.
- A negative aspect is a decrease in the number of basic level councils within one UTC, which may lead to the segmentation of communities and as a result an increased number of insolvent small UTCs, which will subsequently be forced to consolidate, and this in fact impedes the reform.
- The regions ECEAP local civil society experts analysed for this paper show quite a positive tendency in this process. Dnipropetrovsk region is the leader in the number of united communities, while Ternopil and Mykolaiv regions demonstrate an average pace.
- The reform is an extremely important step not only for economic and social development of the territories, improvement of the lives of ordinary people, but also as part of the state policy with the strengthening of regional cooperation and socio-cultural development.

International support programmes

- The largest foreign donor projects supporting the decentralisation reform are DOBRE (USAID) and U-Lead (EU). The U-Lead project aims to help setting up new Administrative Services Centres (ASCs) in order to improve the provision of empowerment of united communities to deliver high quality administrative services to their citizens.
- The main negative aspect of these centres is that their representatives still have an informal influence on processes in the regions. They managed to monopolize access to communities and now refuse to give contact information on these communities at the request of other projects and people outside the project.
- The provision of E-solutions facilitates the provision of better quality services to citizens and the work of such centres and should be used more in streamlining bureaucratic processes.

- Technical assistance programs, like DOBRE, also contribute to increasing the role of women in decision making through such tools as the Women's Leadership Academies or International Women's Congresses. Unfortunately, gender issues are still not very important to Ukrainians, and the work with communities is only laying the foundation for understanding of these issues. At the moment, only few organizations in Ukraine are addressing the issues of gender balance and women's involvement in decision-making.
- Nevertheless, in general, the activities of international technical assistance projects are substantial; they give a result and have an impact. Thus, communities participating in trainings, hubs and seminars become better professionals. Moreover, technical assistance projects help create more professional Centres for Administrative Services and improve the system of providing these services. In fact, it is precisely the work of donor-funded projects that is the driver of the reform. The synergy of the will of several state leaders, local people and technical projects will hopefully make decentralization to be one of the most successful reforms in Ukraine.

Gaps and challenges

- Main problem with progress of decentralisation of Ukrainian regions is political – the missing laws and their faults in implementing reform by Government. This is probably caused by the fact that reform process has limited popular support and is seen as something implemented from above.
- Although the regions covered in report are not in conflict zone, it is probable, that conflict in country's eastern regions is on the background of decentralization debate.
- The ability of new unified communities to control use of land outside of residential areas, which is now prohibited by Ukrainian law, seems to be one of the main economic stumbling blocks of the reform process, which should be removed. Also, the question administrative control of new unified communities should be solved.
- There is a lack of proper communication of the reform and therefore the course of reform is not clear for the local communities. Some draft laws are adopted along the way without planning or analysis what is needed and strategic approaches to how to prioritize.
- Because of this, communities often do not know how to spend their budgets effectively and efficiently for their communities. Therefore, they use the ideas somebody has previously used, that is, they randomly invest in sports, cultural, educational

and medical facilities without additional planning of their future development in the long run.

- This points to one of the crosscutting weaknesses of the reform: low qualifications of the local personnel in municipalities/local governments. For example, this leads to ineffective use of UTC funds, the inability to use state subsidies for development. Local governments are generally not prepared to implement strategic planning and community development programming. The solution to this problem could be the introduction of effective training programs for local self-government officials and the necessary advisory and methodological assistance from the executive authorities.
- Gender and gender budgeting issues are rather new in the Ukrainian government-endorsed discourse, but some progress can be observed on local (community) level. Still, gender balance and understanding of gender equality in decision making is not systematic, is largely personality driven and not institutionalized. Also, given that equal representation of women and gender budgeting has not been mandatory recently, the communities in some regions (Mykolaiv for example) have either largely ignored or distorted this principle.
- There is also lack of understanding of true and practical meaning of gender equality in decision making and budgeting principles. Expert advice and transfer of practical know-how from international actors on this is of vast importance - those UTCs who have managed to lay the foundation for the future development of communities based on a gender principle have had an opportunity to benefit from technical assistance programs and expert advice.
- This knowledge and vision are especially valuable for communities, because in 2018, on the initiative of the Gender Budgeting Project and the Ministry of Finance of Ukraine, such an approach will become mandatory for planning both the expenditures and the revenue parts of the State Budget, depending on who will be the final consumer of the budget-financed services.
- There is uncertainty about controlling/accountability communities' decisions, which should be implemented through the Institute of Prefects, but due to the impossibility of making appropriate changes to the constitution, these powers are planned to be given to regional administrations. Another problem is the ability of UTC use of land outside of residential areas, which is now prohibited by Ukrainian law.
- Lack of a strategic vision and the reform strategy may also reduce initiative of communities, because without understanding the further steps they cannot confidently move forward and implement other reforms directly related to decentralization (medical, land, and educational).

Summary of key recommendations:

- Stronger focus on awareness raising (by international programmes and government) of the reform among citizens and assisting in increasing negotiating and prioritizing skills of the communities.
- Trainings and introduction of best practices. The improvement of local governance through trainings and methodological guidelines should help the communities to make the right decisions for their further development.
- Gender equality, women's participation in decision making and gender budgeting should be made an integral part of reform process - as these principles are generally not viewed as strategic and integral part of the governance in Ukraine, it is a "now or never" momentum to include these principles in legislation as well as in practice.
- Communication. The positive effect of the reform can be reinforced by adopting the single communication plan which would be mandatory for all partners.
- Legislation. Pressure should be put on Verkhovna Rada of Ukraine to adopt all necessary draft laws and amendments to the Constitution to ensure the full implementation of the decentralization reform (e.g. 'On the voluntary amalgamation of territorial communities', law based on the administrative-territorial system of Ukraine etc., see more recommendations below).
- Establishing clear deadlines. It will be possible to complete the process of decentralization only if the government sets clear deadlines for the implementation of different stages of the reform and explains all the necessary steps to itself and to the reform participants.
- Specification and decentralisation of funding by donor/international programmes, defining the areas of responsibility for funding in order to prevent an overlap of different projects in the specified spheres; increasing substantial funding to the regions.
- Focussing on the investments into infrastructure.
- Implementing transparent competition of projects.

Recommendations for further action

General recommendations.

- Raising awareness. As to further steps in developing the reform and current gaps, foreign donors should pay attention to the fact that awareness of the reform is rather low. Due to low awareness, the reform effect is often attributed to local authorities as their personal achievement. Therefore, a failure to explain what exactly the reform gives each citizen and how he can use it, is particularly noticeable.
- Assistance in increasing negotiating and prioritizing skills. It should be noted that 2018 is the last year when communities may unite voluntarily, and now it is critically important to explain to the communities that have already been created that they will not become capable in the long run, if they fail to involve other settlements or unite with other communities. Therefore, the mediation or assistance to communities in negotiation with each other will come to the fore in 2018. This will become a very critical point in the reform development because decentralization imposed on communities from above may have a strong negative effect and may boomerang against the reform in 2019. Therefore, the ability to negotiate, prioritize and reach consensus will be particularly important in 2018-2019. Projects on the development of services in the regions should also be expanded and deepened to provide the best possible services to the inhabitants of the regions. Moreover, due to the increased spheres and scopes of responsibilities of the united communities, effective management and planning skills will become very urgent.
- Trainings and introduction of best practices. The introduction of best governance practices at the local level should become another priority for the nearest future. The improvement of local governance through trainings or methodological guidelines should help communities make the right decisions for their further development. Besides, community representatives should learn from their foreign and Ukrainian colleagues to build an infrastructure that would allow them to create competitive investment projects and support local initiatives that will bring benefits to the communities in the future.

Recommendations for legislation.

- There is a lack of advocacy of the adoption of legislative acts necessary for the reform at the highest level. The Ukrainian Parliament should adopt following necessary draft laws for successful conduct decentralization
- On the changes to the law of Ukraine 'On the voluntary amalgamation of territorial communities'. This draft unblocks the possibility for cities of oblast importance

to be a part of decentralization reform via amalgamation with nearby villages and cities and creation of UTCs.

- On changes to some laws dedicated to a voluntary amalgamation of the territorial communities. This draft simplifies adoption of perspective plans of the territories' formation.
- Based on the administrative-territorial system of Ukraine. This draft establishes the basics of the administrative-territorial system and describes the mechanisms of creation, change, and destruction of administrative units' borders without changes to the current administrative-territorial system of Ukraine.
- On the service in the bodies of local governance. This law establishes the new legal and organizational foundations of local government bodies as a professional and politically neutral activity for the good of the state and community.
- On changes to the law 'On the regulation of town-planning activity'. This draft widens authority of UTCs on the regulation of development of territories.

Recommendations for improving decentralization communication.

- Increase communication, which could explain in simple words what is happening and why. This effect can be reinforced by the true synergy of all the partners involved in the process of decentralization communication using the following means.
- Adopt the single communication plan and branding for all projects of technical assistance and their beneficiary (Ministry of Regional Development), which would be mandatory for all partners to avoid chaos and discord, which are now in place.
- Increase the usage of TV and print media as tools for communication, because the Internet cannot fulfil the needs of communication.
- Measures that should be taken to overcome local population fears regarding the creation of united territorial communities:
- Provide information on amalgamated communities through essential media channels (mostly TV, regional press etc.). This would help to inform wider audiences about positives of amalgamation and create the request for amalgamation from the bottom. Our research shows that the knowledge of reform by people make them supporters of that process.

- Conduct activities targeted on the local intellectuals, who could unite people around the idea of the creation of UTCs.
- Work with people from still unconsolidated communities (heads of village councils, intellectuals, etc.), conduct study tours of unconsolidated territories to UTCs and organise real events with people, who already created UTC and achieved some results.

Recommendations about concrete steps the Ukrainian Government should take for conducting the decentralisation reform more efficiently in the future:

- The government should find motivating means to push united territorial communities with population below 5000 persons to integration. Eventually, the most of such communities would amalgamate to survive and cover their expenses. If a community could cover its existence, it should be left alone, because it is already independent
- Establish an overview of amalgamated communities' decisions through the institution of prefects in order to level influence of rayon state administration, which creates obstacles to the whole reform via opposition to the communities. In addition, this decision will allow compliance with those decisions with the law.
- Exclude the influence of heads of oblast state administration and MPs on decisions of Regional Development State Fund's committees. This is crucial to encourage amalgamated communities to prepare more quality projects and get the funding for them regardless status and political pressure of local MPs.

Recommendations for international actors.

- Specification and decentralisation of funding. Clearly define the areas of responsibility for funding to prevent an overlap of different projects in the specified spheres.
- Provide more substantial funding to the regions and decrease funds for the central offices. In addition, there might be beneficial for projects to work in regions to understand target audiences' needs.
- More strategic focus on giving clear messages at all fields of decentralization assistance on integrating gender equality/gender budgeting to the governance

- Investments into infrastructure. Invest more into infrastructure projects, because they have wider impact on people's lives and they are more visual for the still unconsolidated communities.
- Transparent competition of projects. Eliminate unofficial and unfair competition among International technical assistance projects.

ECEAP Commentary:

Main gap in assistance to reform process and its implementation is lack of awareness raising/communication efforts and capacity building for local stakeholders (including building an understanding why and how is gender equality/gender budgeting integral part of governance).

- As to further steps in developing the reform and current gaps, special attention needs to be paid to the fact that awareness of the reform is rather low. It's true that 6 million people can already feel the reform results, but this number is not critical, especially given that the reform has not affected large cities yet. Due to low awareness, the reform effect is often attributed to local authorities as their personal achievement. Besides, sometimes even people in united communities do not understand what this reform gives and what has changed.
- Therefore, a failure to explain what exactly the reform gives each citizen and how he can use it, is particularly noticeable. That is, there is a lack of mass communication, which could explain in simple words what is happening and why. This effect can be reinforced by the true synergy of all the partners involved in the process of decentralization communication and the so-called "one voice". Here it would be good to stand together with a joint emphasis and branding, without spending time on competition within civil society.
- There is also a lack of advocacy of the adoption of legislative acts necessary for the reform at the highest level, because, if these decisions are not taken, the communities will be forced to continue existing under the initial conditions without the possibility of objective development.
- Even though technical assistance programs, like DOBRE, also contribute to increasing the role of women in decision making through such tools as the Women's Leadership Academies or International Women's Congresses. Unfortunately, gender issues are still not very important to Ukrainians, and the work with communities is only at very early stage of establishing a foundation for understanding of these issues. At the moment, only few organizations in Ukraine are addressing the issues of gender balance and women's involvement in decision-making.

- It should also be noted that 2018 is the last year when communities may unite, and now it is critically important to explain to the communities that have already been created that they will not become capable in the long run, if they fail to involve other settlements or unite with other communities. Besides, communities should learn how to work together and enter into inter-agency cooperation agreements. Therefore, the mediation or assistance to communities in negotiation with each other will come to the fore in 2018. This will become a very critical point in the reform development because decentralization imposed on communities from above may have a strong negative effect and may boomerang against the reform in 2019.
- Therefore, the ability to negotiate, prioritize and reach consensus will be particularly important in 2018-2019. Projects on the development of services in the regions should also be expanded and deepened to provide the best possible services to the inhabitants of the regions. The need for economic success and investment attractiveness will only gain momentum in a serious competitive environment among local self-governments. Moreover, due to the increased spheres and scopes of responsibilities of the united communities, effective management and planning skills will become very urgent.
- Introduction of best governance practices at the local level should become another priority for the nearest future. Although the number of communities has not reached its peak yet, the number of decisions made by UTCs is extremely high. Moreover, there is no clear mechanism of control on decisions legality and this mechanism should be established. However, not all communities are provided with appropriate consultations. That is why the improvement of local governance through trainings or methodological guidelines should help communities make the right decisions for their further development. Besides, community representatives should learn from their foreign and Ukrainian colleagues to build an infrastructure that would allow them to create competitive investment projects and support local initiatives that will bring benefits to the communities in the future.
- Additionally, the future emphasis might be put on the communicating success stories. The real-life examples from UTCs could initiate the future growth of amalgamated communities as well as an increase in the knowledge of the reform's context and impact wider audiences, which is vital for the success of final year of voluntary amalgamation.