

Development of the Organisational and Legal Mechanism of State Control of Local Self-Government in Ensuring the Territorial Integrity of Ukraine

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Abstract

In the context of modernising Ukrainian statehood, it is essential to develop elements of civil society. Accordingly, there is a need to develop new theoretical and practical approaches to control the activities of local self-government. The study aims to identify the mechanism of the State's control over local self-government in the organisational and legal aspects through comparative-legal, formal-legal, legal modelling and statistical methods. The study concludes that an effective public administration system, including state control, should be completed to implement political, social, cultural, economic, and other priorities of society's development. The study concludes that the existing tasks of reforming the territorial basis of local self-government in Ukraine have been largely resolved. Nevertheless, there is a need to improve the legal regulation and organisational arrangement of the territorial basis of local self-government under the control of the state for its further development.

Keywords: public administration, state control, local self-government bodies, local level, territorial integrity.

Introduction

Municipal governance has its peculiarities. For example, significant (in terms of population) municipalities are more challenging to manage, requiring more professional and apolitical local government (Baclija Brajnik et al., 2023).

The decentralisation process in Ukraine is characterised as non-linear, chaotic and contradictory. However, frequent manifestations of local democracy within the analysed system positively impact the results of its democratisation (Rudakiewicz, 2022). The further development of local self-government and its effective functioning is natural. Krüger et al. (2022) claim that the core of society is at the regional level: in a village, neighbourhood, or city district. Here, the

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community first develops collective rules to ensure its continued existence. A similar position is supported by Cvetković et al. (2021). He notes that public administration requires change for a continuous strategic, tactical and operational transformation of its functioning system. It should be done to strengthen the capacity of local governments to prevent disasters. It also aims to prepare for, respond to, and recover from external and internal risks. For example, better risk-based planning and the increased use of operational audits contribute to the financial resilience of municipalities (De Vicente-Lama et al., 2024). Likewise, local governments, acting within their mandates, have been active in overcoming the challenges of the COVID-19 pandemic (Sienkiewicz & Kuć-Czajkowska, 2022).

Mostly in developing countries, and especially in former communist countries, the public lacks sufficient literacy and interest. Therefore, citizens cannot understand finance, political economy, fiscal systems, legal and political systems, social paradigms, and economics (Lipi et al., 2024). The problem of interaction between local self-government and state authorities in ensuring territorial integrity is essential. As Kamberi and Hashani (2023) noted, local self-government has a certain degree of independence from the central government. The institution has social, factual, cultural, administrative and geographical control over a particular territory. At the same time, two main organisational and legal issues remain unresolved. It is about the change in the position of local governments regarding the Head of State and the lack of complete financial independence of municipalities (Pachucki-Włosek, 2022). In addition, as Huseynov (2024) states, despite the progress in the implementation of the ECLSG, especially in decentralisation and the formation of local governments, there are still obstacles. These include ensuring full compliance with the law. It includes including issues related to local government autonomy, border protection and financial resources. Challenges remain, such as limited autonomy, insufficient funding and shortcomings in the electoral process.

This situation is not unique to Eastern European countries, such as Ukraine. The latter does not have a long history of local self-government, unlike democratic countries with established traditions of governance at the regional level. For example, Vakkala et al. (2021) note that the constitution and law protect local self-government in Finland. But it is highly dependent on the state and limited in many ways. As Serohina et al. (2019) emphasise, developing modern democratic states requires respect for the principle of subsidiarity. In making rational public decisions, public authorities tend to be more public-oriented. They should also pay attention to actions that ensure a fair and equal distribution of public services to all individuals (Gayadhar, 2024).

Thus, while paying significant attention to strengthening citizen participation and addressing public needs. A balanced distribution of governance powers between central and local governments is required. The latter emphasises the importance of decentralisation, democratisation and the effective functioning of local government systems to resolve local problems efficiently (Phirtskhalashvili & Gvartadze, 2024). In the context of addressing them and ensuring territorial integrity, according to Peresta (2024), it is essential that local governments and local state administrations ensure the development of cross-border cooperation in various fields. This should happen with help the relevant powers granted to them with the relevant actors and participants in such cooperation of neighbouring states. This may include developing and implementing joint initiatives, activities, projects, programmes and strategies. It is also possible to create Euroregional Cooperation Groups and a European Territorial Cooperation Group to develop a relevant system for the population living in border regions.

Objectives of the study

The study *aims* to determine the structure and main organisational and legal aspects of the mechanism of state control of local self-government in the context of ensuring territorial integrity. The *objectives* of the study are:

1. to identify general trends in the formation and development of self-government institutions in Eastern European countries;
2. to identify the constituent elements of the mechanism of state control of local self-government in the organisational and legal sense;
3. to establish the main directions for further development of the organisational and legal mechanism of state control over local self-government.

Literature review

At the present stage, it is essential to study the organisational and legal aspects of state control in the context of ensuring territorial integrity. Still, this issue has not received sufficient attention in academic circles. The very structural elements of this mechanism remain poorly understood, which suggests further research in this area. The following scientific works have analysed certain aspects of the problem under study.

The critical challenge facing any large country is how to build a united nation. At the same time, it is necessary to avoid relying on a centralised government and a rigid bureaucracy. The latter cannot address the multifaceted challenges of governance at different levels and scales (Tang, 2021). As Kurkela

et al. (2023) note, local governments are increasingly developing new methods and organisational models for citizen participation. These include a range of participation measures and resource allocation for organising citizen participation. For example, municipality-community cooperation encourages mayors to increase employment in municipalities with higher unemployment rates (Jaaidane et al., 2023).

Local development generally means transforming and changing the living conditions of the population of a particular area. As a rule, this is done to improve one or all of the following areas. It is about material and social prosperity, economic performance, well-being and opportunities for residents. It also includes knowledge and dissemination of ideas, technological access, resilience to shocks and adverse events, external relations, internal stability and cooperation, and social and environmental sustainability (Gasparyan, 2024; Chyrkin et al., 2022). In addition, it is essential to modernise the system to distribute available tax resources between the state and local units by strengthening elements of municipal fiscal autonomy (Rakar, 2019). At the same time, it should be remembered that citizens are traditionally considered to be the primary users of the accounting information. She provided by local governments, thanks to their financial contributions through taxes and voting rights (Donatella & Bisogno, 2024).

Public administration is responsible for the implementation of tasks. These cover a wide range of community life. The increasing number of public duties to be performed by the government and their assignment to local governments make it essential for local authorities. It implies the need to consider the interests of social groups and the particularistic goals of specific actors, including legal entities and individuals (Ciesielski, 2019). As noted by Salvador and Sancho (2021), local governments need different capabilities to fulfil this role. These will allow them to analyse, manage and transform their environment through public policies. For example, public service delivery and administration have been transformed by digitalisation. And the use of information and communication technologies has changed significantly in recent years (Hoffman, 2024).

To improve this experience, Eastern European countries should consider the similarity of administrative-territorial division and post-socialist reforms of local self-government (Zhumagulov et al., 2022). One of the forms of local self-government that are effective for implementation. In this case, is multifunctional autonomy when citizens can comprehensively manage their communities with the support of the state (Ohta et al., 2021). For example, a village government has a more sovereign position and a more prominent role in managing its affairs,

placing it as a hybrid organisation between a self-governing community and local government (Dawud et al., 2023).

Materials and Methods

The study was conducted in stages to achieve the research aim and objectives. At each stage, a separate task was implemented to substantiate the hypothesis. It assumes that ensuring territorial integrity in the organisational and legal aspects of state control of local self-government is closely linked to its territorial basis. The research procedure was divided into 3 independent stages: preparatory, main and final.

At the preparatory stage, relevant works of EU and Ukrainian scholars for 2019-2024 were selected and analysed. They were devoted to theoretical understanding and empirical study of the leading models of interaction between the state and local self-government in the organisational and legal sense. At the main stage of the study, the author set out the provisions to substantiate the research hypothesis. This is how he analysed the current legislation of Ukraine. It regulates the activities of local self-government. In this way, the author identified the component of the mechanism of state control over local self-government in the legal and organisational aspects. At the final stage, the study's results were compared with the conclusions from scholars in the analysed scientific works.

For the study, 35 relevant (30 foreign and 5 Ukrainian) scientific papers for 2019-2024, were selected for analysis using the search engines ScienceDirect and Mendeley. The following keywords were used in choosing scientific papers: local self-government, state control, territorial integrity, public administration, and municipal management. The search criteria also included the relevance of the research papers' subject matter. In addition, the selection criterion was also based on scientific papers with practical recommendations that could be implemented in Ukraine to develop the mechanism under study. The search criteria were met by 29 scientific papers, of which 2 were written by Ukrainian scholars and 27 by foreign scholars. The geographical choice of these papers is driven by the need to compare the organisational and legal mechanism of state control over local self-government in Ukraine. The context of this is to ensure territorial integrity with the similar experience of countries with a long history of local self-government.

For the statistical analysis, we used publicly available indicators of revenues of the general fund of local budgets of Ukraine until 2022.

The study's limitations are that it does not include data on the local budgets of four regions of Ukraine and the city of Kyiv and information on similar data from other countries for comparison.

The author identifies the main trends in the interaction between the State and local self-government based on comparative legal and statistical data.

The study uses the formal legal method to study and analyse the elements of the mechanism of state organisational and legal control of local self-government in the context of ensuring territorial integrity.

Using the modelling method, the article identifies the structural elements of the state control system of local self-government in ensuring territorial integrity from the point of view of its organisation and legal regulation.

The article uses the statistical method to characterise the results of implementing an effective organisational and legal mechanism of state control over local self-government in Ukraine.

Results

The territory as a feature and part of the state organization is the space in which a community of people (a socially differentiated people) legally constituted as a sovereign state exercises its power. In the legal sense, the territory defines the limits of the distribution of power powers of different levels and nature. In Ukraine, state power and local self-government power of several levels function on the same territory, which leads to the demarcation of their powers in the aspect of ensuring the territorial integrity of the state. Threats to constitutional security in the sphere of ensuring the territorial integrity, inviolability, and sovereignty of Ukraine include the actions of various subjects of constitutional legal relations that violate constitutional norms, generally recognized principles and norms of international law, international treaties ratified by Ukraine. These include those carried out at the level of local self-government bodies. It:

- violation of the sovereignty of the people, i.e., limitation of its sovereign right to exercise its power directly, as well as through state authorities and local self-government bodies;
- violation of the supremacy of the Constitution of Ukraine and the legislation of Ukraine, manifested in the adoption by local self-government bodies and their officials of legal acts that contradict them;
- violation of the integrity and inviolability of the territory of Ukraine, which involves actions aimed at changing the territory of the state;
- violation of the unity of the economic space, the free movement of goods, services and financial means, which is manifested in various forms of isolation policy: restrictions on the export (import) of goods, the introduction of special regimes at administrative borders;
- an attempt to seize priority positions in the state and society, including by limiting (actually subordinating) other branches of state power;

- lack of interaction and coordinated functioning of state authorities and local self-government.

Effective local government management is impossible without an appropriate legal framework for municipalities that regulates its activities. Thus, to assess the legal mechanism's impact on municipal governance. It is necessary to reveal the criteria and indicators that allow it to identify its effectiveness. Based on the analysis of Ukraine's current regulatory legal acts listed in Table 1, we can conclude that the latter requires a corresponding order from the chief official of the relevant territorial community. It should set out a list of performance indicators for local self-government bodies, methods for calculating them, and a procedure for allocating grants to encourage the best results.

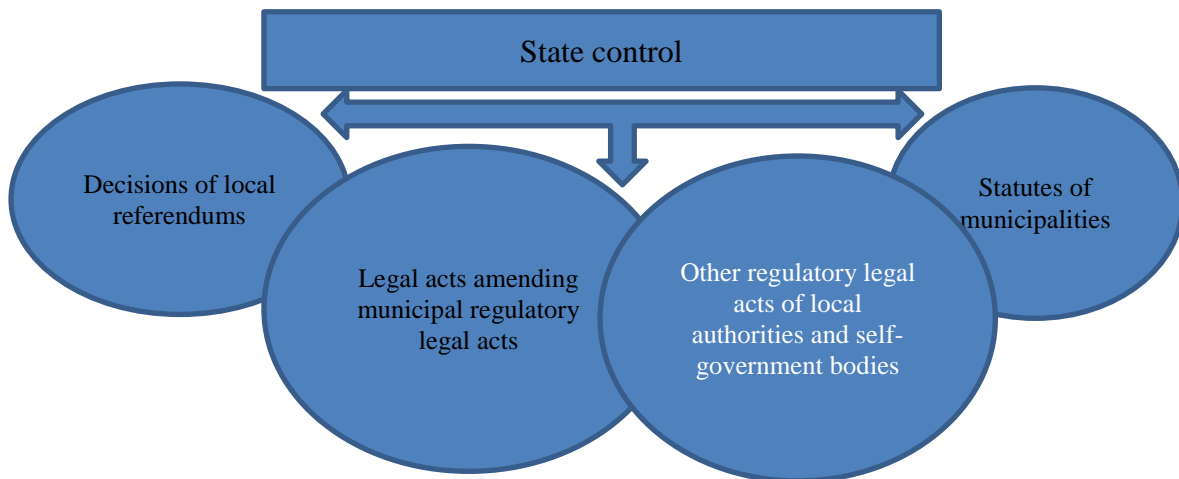


Figure 1. The system of state control of local self-government

By Figure 1, state control, in this case, will be manifested in the maintenance of a relevant register of municipal legal acts. It includes decisions in the form of legal acts, for example, those adopted at a local referendum, and the charters of municipalities. It also includes other regulatory legal acts of local self-government bodies and officials, legal acts that amend municipal regulatory legal acts. Також recognise them as invalid (cancel them), and suspend or renew their effect. It also seems advisable to conduct legal expertise, which would further facilitate the implementation of the legal municipal governance mechanism in practice.

Programme documents also play a unique role in assessing the effectiveness of the mechanism under study, as they allow tracking and analysis of the work of each of its elements. The positive result of creating programme

documents for the development of territories makes it possible to observe the work of the entire municipal management system and the dynamics of its development.

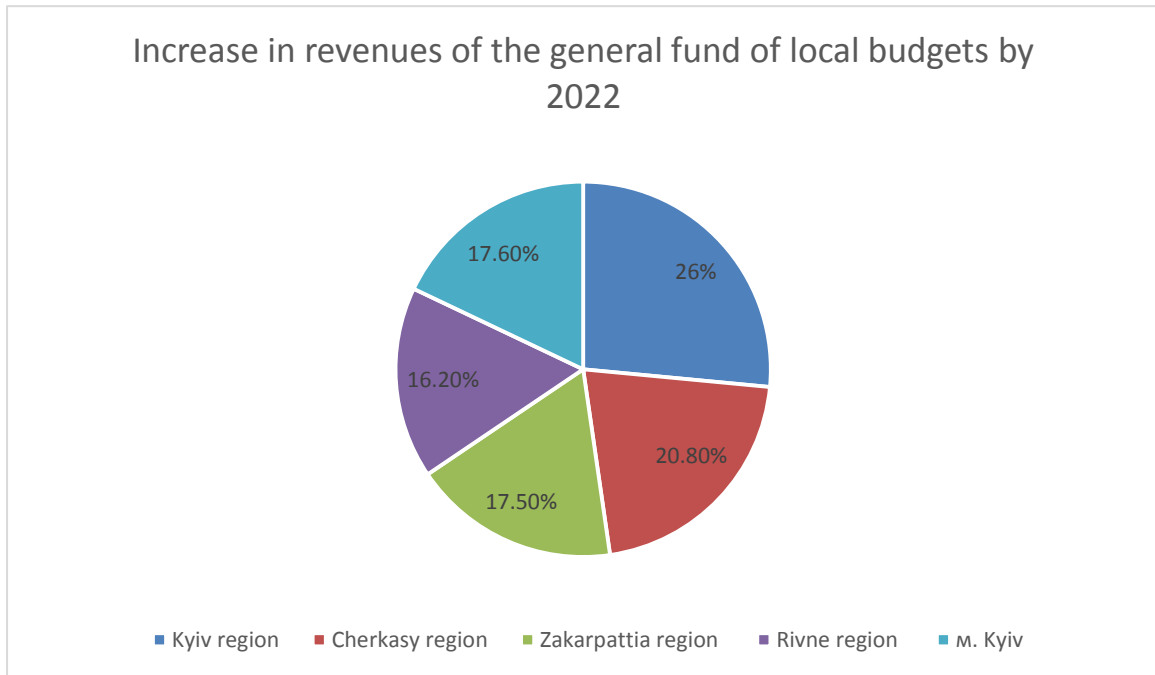


Figure 2. Increase in revenues of the general fund of local budgets by 2022 (compiled by the author based on data from (Ministry of Finance of Ukraine, 2024))

The increase in revenues of the territories shown in Figure 1 is primarily due to the relocation of individuals and legal entities from the territories where hostilities are ongoing or have been conducted or from the territories that were or are temporarily occupied by the Russian Federation. There is no information on those regions where active hostilities are ongoing or whose territories were temporarily occupied by the Russian Federation, particularly in Donetsk, Zaporizhzhia, Luhansk and Kherson regions.

To improve the efficiency and effectiveness of local authorities. It is advisable to study the activities of local self-government bodies and subsequent presentation of the results at meetings of the relevant state bodies that control them. Based on the results of such work, measures and recommendations should be given to address the identified problems and shortcomings. In addition, the countries of the Eastern European space are characterised by the absence of a coherent model of local self-government and the concept of creating an institution of local self-government.

The territorial basis of local self-government as an institution solves the most critical task. It connects the municipality and its territory, the spatial boundaries of residence of the population of the city and the exercise of local self-government, the generally binding rules for the use of the territory of the municipality in the interests of its population, the creation of new municipalities, the transformation and liquidation of existing ones into a single and indissoluble whole. There is a need for a modern scientific interpretation of the existing forms of control – state and municipal. Municipal control can be distinguished as an independent form of public control, justified in subject composition. The population, citizens, public organisations, and the media – the subjects of public control – are, by their legal nature, elements of civil society that are not part of municipal bodies that are subjects of state control. With the separation of public control, the institutionalisation of control in local self-government becomes logically complete.

The territorial basis of local self-government in Ukraine has remained one of the most complex, controversial, and urgent issues throughout its formation and development. This is due to the destruction of established ideas caused by the need to move from the usual administrative-territorial division to a new territorial structure incorporating the territorial basis of local self-government and the need to form and legally enshrine a new model of the country's territorial structure. At the same time, having assessed the constitutional and legal framework regulating the institution of control in the municipal sphere, it can be concluded that, in general, legal conditions have been created for implementing control activities for local self-government bodies and officials.

It is advisable to issue an appropriate order to the competent local self-government body, set out a list of performance indicators for local self-government bodies and methods for calculating them, and allocate grants to reward the best results.

The modern public administration reform is intended to strengthen the unity of state power and ensure the consistency and effectiveness of democratic control. The problem of state control is also of practical importance, as it contributes to a deeper study of the public administration system's functioning and the effectiveness of its influence on all the most critical aspects of state activity. Thus, firstly, measures to assess the state's decision-making on local issues by municipal authorities acquire the necessary objectivity. It is envisaged that the population of municipalities will be involved in these activities. Their opinion can significantly affect the performance indicators of the objects being evaluated. Secondly, modernising many areas of Ukraine insistently dictates the search for new approaches to traditionally established phenomena, particularly state control.

Monitoring and evaluation of the activities of local authorities, accompanied by the encouragement of municipalities, is compelling. Those that have achieved the best results allow us to consider state control as a supervisory state instrument and a stimulating mechanism.

Discussion

The state's organisational and legal mechanisms of control over local self-government deserve special attention, as they are fundamental to any management activity. Ciesielski (2019) also notes that, given the form of the country's territorial division system, the quality of everyday life and the level of public services largely depend on decisions made by communal authorities. At the same time, supporting this position, De Vicente-Lama (2024) adds that municipalities with less complex structures have more excellent financial stability. Conversely, the lack of resources for developing the control function is a constraining factor. A similar opinion is supported by Gasparyan (2024). He claims that smaller communities are more satisfied with improving service delivery by local governments, while larger communities face problems. These include dissatisfaction with service delivery, loss of regional identity, and perceptions of inequality in tax contributions compared to benefits received.

At the same time, as noted by Krüger et al. (2022), the local level of government is not the only one. Above it, there are supra-local power formations, ranging in scale from regional networks to empires. They complement or compete with local orders. According to scientists, in those countries where supralocal statehood exists in a weak capacity. There is a potential threat to the state's territorial integrity, and local forms of self-government are remarkably heterogeneous and visible.

The quality of local government performance can be assessed by analysing the standard of living of the population of a particular municipality in terms of specific criteria. This, in turn, allows us to talk about the close interaction of organisational and legal mechanisms in municipal governance. According to Cvetković et al. (2021), these factors include the capacity of local authorities to apply relevant policies through five analytical areas. They are (1) readiness and legal framework; (2) financial basis; (3) political aspects; (4) cooperation and partnership; (5) communication. A similar position is supported by Dawud (2023), who sees attempts to actualise local values to strengthen community self-government through the relevant cultural councils as a solution using restorative justice.

Ukraine's public authorities system has undergone a complex and controversial development path. The importance of state authorities and local self-

government bodies has repeatedly changed in different periods. In this regard, the model of their interaction has also changed. However, the role of local self-government has remained invariably important. Bergström (2021) expresses a different position. His research examined whether local democratic systems can change with changing conditions and stay vibrant. He concluded that long-term trends present a somewhat dystopian picture, leading to depoliticisation and decreased freedom of action.

It is worth agreeing with Minankova (2023) that the legal concept of state control over the activities of local self-government bodies is in the process of formation. We support the position of Pylypenko (2023). He states that “local self-government can effectively manage and increase the financial resources received to respond adequately to unforeseen challenges, even under martial law”. At the same time, supporting a similar point of view, Gayadhar (2024) notes that the European Charter of Local Self-Government is a crucial instrument in shaping the governance landscape in Europe. Accordingly, democratic governments should be guided by it.

Conclusions

The study has led to the following conclusion. The effective functioning of the local self-government system, its further development, and the mechanism of state control are essential. The context for this is the organisational and legal aspects. The following conditions ensure territorial integrity: the need to enshrine in local legislation clearly defined powers of all governing bodies, to establish the independence of local authorities within their powers, and to ensure the functioning of local authorities on a solid financial base.

Each level of government should be assigned clearly defined sources of budget revenues. This would eliminate the grounds for conflicts over their distribution. Local self-government should rely on a deep historical tradition of self-government, on a system of developed horizontal ties of civil society, and simultaneously be an instrument of their development.

Recommendations

In general, based on the study's results, the following recommendations can be made. For further development of the state organisational and legal mechanism of state control, it is necessary to fulfil the conditions for increasing its effectiveness. The context for this is ensuring Ukraine's territorial integrity. These are:

- public opinion polls. The method helps assess the state policy's effectiveness and identify shortcomings in the work of individual authorities and

management bodies. It helps to identify the needs of the community and citizens, etc. The results of public opinion polls on the activities of the state authorities allow us to determine citizens' satisfaction with the degree of legality and the quality of the activities of the state authorities. Thus, public opinion polls are necessary to assess the effectiveness of the government itself;

- coordination of the activities of control bodies, which allows for interaction in law and order and eliminates duplication of interagency powers. It eliminates parallelism and interagency disagreements. Coordination of actions of all state-controlling bodies is a form of exercising the control function;

- Modernisation of the media system. The media system urgently needs to be modernised to increase its effectiveness of control and operate by international standards. In a democratic society and a state governed by the rule of law, the media should positively impact society and take an active part in state-building.

- Information policy, openness, complete transparency, and accessibility of public authorities are the most essential conditions for the effectiveness of their control activities.

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