

UDC 342.55

## SOME CONCEPTUAL PROBLEMS OF LEGISLATION DEVELOPMENT ABOUT FORMS OF ACTIVITY OF LOCAL COUNCIL'S DEPUTIES IN UKRAINE

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## SUMMARY

Some conceptual problems of the development of legislation on organizational and legal forms of work of local rada deputies in modern conditions are considered. It is asserted that the status of local rada deputies and the forms of their activities are inherently a rather conservative and inactive institution of municipal law. Most of the attributes and criteria for the status of local rada deputies, and especially the forms of their activities (participation in plenary sessions, work in standing commissions, meetings with voters, deputy requests, etc.) remain practically unchanged for many decades in their formal characteristics. The reasons for this stagnation are given. It is proved that the strengthening of the foundations of the activity of the subjects of local self-government is of great importance in the development of municipal relations with the participation of local rada deputies. First of all, these are legal, organizational, financial, material and technical, scientific bases, as well as the formation on the basis of this verified state policy in the sphere of the status of local rada deputies.

**Key words:** local councils, deputies, voters, deputy requests.

### ДЕЯКІ КОНЦЕПТУАЛЬНІ ПРОБЛЕМИ РОЗВИТКУ ЗАКОНОДАВСТВА ПРО ФОРМИ ДІЯЛЬНОСТІ ДЕПУТАТІВ МІСЦЕВИХ РАД В УКРАЇНІ

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## АНОТАЦІЯ

Розглянуто деякі концептуальні проблеми розвитку законодавства про організаційно-правові форми роботи депутатів місцевих рад у сучасних умовах. Стверджується, що статус депутатів місцевих рад та форм їхньої діяльності у своїй природі є доволі консервативним та малорухливим інститутом муніципального права. Більшість атрибутів та критеріїв статусу депутатів місцевих рад та особливо форм їх діяльності (участь у пленарних засіданнях, робота у постійних комісіях, зустрічі з виборцями, депутатські запити тощо), за своїми формальними характеристиками залишаються практично незмінними протягом багатьох десятиліть. Наводяться причини такої стагнації. Доводиться, що важливе значення у розвитку муніципальних відносин за участю депутатів місцевих рад має подальше зміцнення основ діяльності суб'єктів місцевого самоврядування, зокрема, правових, організаційних, фінансових, матеріально-технічних, наукових, а також формування на базі цього вивіреної державної політики у сфері статусу депутатів місцевих рад.

**Ключові слова:** місцеві ради, депутати, виборці, депутатські запити.

**Formulation of the problem.** Making a new model of deputies status in local councils and forms of their activity, that would meet current needs and challenges of local communities, which appear in front of a democratic and socio-legal state, that nowadays Ukraine want to become, is one of the most important direction of municipal and administrative reform.

Any changes to legislation, separation of functions and credentials, improve structure of local authorities and executive bodies, remain on paper if not supported by the actions of deputies in local councils, their professional and responsible attitude towards their duties.

Modern model of deputies status in local councils and their forms of activity should be open, competitive and prestigious, focused on productive activities in solving local issues, to ensure the fulfillment credentials of representative bodies of local self-government, should actively interact with institutes of civil society and a democratic state.

The relevance of this article due to fact that processes of state-building in Ukraine require a significant increase of role and effectiveness of deputies in local councils activity – representatives of territorial community, voters in constituency.

As noted in art. 2 of the Law «About status of deputies in local councils» deputy is obligated to express and protect interests of territorial community and it's part – voters in their constituency, fulfill their orders accordingly to his authority, granted by law, actively participate in the implementation of local government [20].

**Scope of the research.** The issue of organizing work of local council members and improving their forms of activity occupy an important place in the science of municipal law. Subsequent researchers have devoted their works to study these problems: I. O. Alekseev, U. U. Baltsiy, O. V. Batanov, A. O. Bezuglov, G. V. Zadorozhna, I. V. Zakharov, V. M. Kampano, V. V. Kravchenko, L. L. Labenska, V. I. Lysenko, P. M. Lyubchenko, B. A. Perezhnyak, M. L. Peshin, V. F. Pogorilko, A. V. Seryogin, S. G. Seryogina, U. M. Todyka, O. F. Frytskiy, O. V. Chernetska, U. G. Yarmatov and others.

However, subject of increasing the effectiveness deputies in local council, its functional performance, interaction and interdependence of organizational and legal forms of deputies activity in local councils and realization of their functions and credentials, in spite of certain studies, didn't find sufficient sci-

entific development, that caused relevance of issues raised in this article.

The purpose of this article – to consider separate conceptual problems of legislation development about organizational and legal forms of work of deputies in local councils in modern conditions.

**Representation of the main material.** Traditionally, under the forms of deputies activity in local councils understand specific organizational and legal actions, with the help of which they execute their functions and credentials.

These forms of execution functions and credentials by deputies are determined, as a rule, by directions of deputy activities, namely: activity in constituency and activity in representative body of local self-government to which deputy is elected.

Also, activity of deputy in local council can take place both as in individual and also in collective form.

Thus, collective forms of deputy activity are inherent in work in a representative body, namely during sessions, in standing and ad hoc commissions, as well as in deputy groups and factions.

However, with the overall positive assessment of collective forms of deputy activity, perhaps, preference should be given to individual forms.

In particular, possible to distinguish the following organizational forms of deputy's activity in the constituency: consideration of complaints, applications and proposals, reception of citizens, study of public opinion; reporting to voters, etc.

It should be noted, that formation of municipal legal relations in the field of work organization and functioning deputies in local councils, realization basic forms of their activity, is one of the complex and controversial tasks of formation local self-government in Ukraine.

On the way of these processes there is a complex of administrative-political, economic, social-psychological, spiritual-cultural, ideological, informational-communicative and other obstacles.

At all, effective functional of deputies activity in local council provides not only constitutional and legal recognition, declaration of independence of local government and its subjects (including members of local councils) in solving local issues, not only the consolidation of legal, social and other guarantees of this independence, implementation functions and competence of local government and his officials, existence of a separate municipal law, but also development of socio-economic, financial, spiritual and cultural, informational and communicative, educational and personnel potential of the entire state as a whole.

Domestic experts on local self-government bodies for a long time pay attention to the fact that staffing problem – one of the most critical that exists today [4–6; 8; 22].

Always makes itself felt lack of qualified staff in public authorities, at the local and regional levels, able to work in a social and legal state, informational and inclusive society, wide international relations of Ukraine, honest, patriotic.

Not surprising, that issue of need for changes in the legislation regulating the status of a deputy in local council in Ukraine has only recently been raised repeatedly [11–16].

However, in practical terms, it flowed out, in the best case, in form of making cosmetic changes to legislation and, in particular, in law "About status of deputies in local councils" [20] and principles of deputies activity in local councils and the basis of relevant legislation remain old, while electoral law, civil service law, anti-corruption legislation, etc. have changed.

Only advancement in solving these and other problems will allow us to speak about the establishment of a democratic and effective model of deputies status in local councils, without which it is impossible to build a capable local government in Ukraine.

That is why the most relevant today is the idea to formate a highly-qualified corps of local council deputies as main legitimate representatives of territorial communities in local councils,

embodiment of the best municipal practices, source of the formation of culture of real participation in territorial community in solving issues of local life.

Today it is necessary to fill up actual content of rights and duties of deputies in local councils, clearly delineate functions and credentials of public authorities and local governments, raise to a new level status of deputies of village, town and city mayors, other local government officials, to improve mechanism of their constitutional and legal responsibility, etc.

Talking about the progressive nature of municipal development, stepwise political and legal, administrative, social and cultural modernization, national model of deputies status in local councils and forms of their activities, we proceed from, that in reality is always most natural and perspective way is evolution.

True local self-government is a phenomenon and a socio-political institution that can't appear simultaneously.

It can't be formalized.

Therefore, it's origin, development, effective functioning and organization – this are result of long-term evolution of territorial communities, society, state.

So, existence of so-called transition phases in municipal history of the state is quite natural, and they usually can be quite long.

Transition state – is always very complex, internally contradictory, often a very painful state of society and state, associated with a critical reappraisal it's past and with a painful choice of it's present and distant future.

At same time, deputies status in local councils and their forms of activity by nature is rather conservative and inactive municipal law institute.

Most attributes and criterias of deputies status in local councils, and especially of their forms of activity (participation in plenary sessions, work in permanent commissions, meetings with voters, deputies inquiries, etc.), by its formal characteristics remain unchanged for many decades.

If institution of local government since the beginning of the 90's of the last century has undergone a complex process of it's evolution, as a result of which it's nature and functions radically changed [2], then in it's essence and content organizational forms of deputies activity in local councils didn't undergo such changes.

Thus, according to the Constitution (Basic Law) of Ukraine in 1978 (with amendments and additions) [7] not only proclaimed, that "all power in Ukraine belongs to people", that "carries out state power (allocated here and hereafter – A. S.) through the council of people's deputies, which constitute political basis of Ukraine" (Article 2), but also established, that "the councils of people's deputies – Verkhovna Rada of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea and local councils of people's deputies – region, area, city, district in cities, village and village councils of people's deputies – constitute a unified system of representative bodies of state power of Ukraine" (Art. 78).

Also, in a separate chapter 14, "Local councils of people's deputies", it was determined that the state authorities in regions, cities, districts in cities, villages and towns of Ukraine have regional, district, city, district councils, township, village councils of people's deputies (Article 124), which, within the limits of their competence, solve all issues of local importance, proceeding from the interests of citizens residing in their territory and state interests, implement the decision of the higher authorities of state power, coordinate the activities of the lower councils of people's deputies, ensure the observance of law and order, participate in the discussion of issues of republican importance, make their proposals on these issues.

Accepted at the time of existence of the USSR, the law "About local councils of people's deputies of the Ukrainian SSR and local self-government" December 7, 1990 [18], which was

proclaimed "the basis of the implementation of state power and local self-government, consolidation of fullness democracy in respective administrative territories" (Preamble of the law) provided that system of local self-government includes "village, township, district, city, city district, regional council elections and their bodies which are state local authorities" (Article 2).

New edition of the Law "About local councils of people's deputies, local and regional self-government in Ukraine" March 26, 1992 [19] consolidates local self-government as a basis for a democratic government in Ukraine, defining that "territorial self-organization of citizens for self-determination directly or through bodies, which they choose, all issues of local life within the Constitution of Ukraine, laws of Ukraine and its own financial and economic base", practically abandoning terminology used by Soviet doctrine.

In fact, this meant a rejection of Soviet model of territorial organization of power, although at constitutional level, as already noted, it continued to exist until acception current Constitution of Ukraine.

At the same time, analysis of status and particular forms of deputies activity in local councils (see, for example, article 50 of the Law "About local councils of people's deputies of the Ukrainian SSR and local self-government" December 7, 1990 [18], article 30 of the Law "About local councils people's deputies, local and regional self-government in Ukraine" March 26, 1992 [19], article 49 of the Law "About local self-government in Ukraine" May 21, 1997 [17]) shows that its functional role as a representative of interests of population, carrier of fullness rights, which ensure its active participation in activities of relevant council and bodies formed by it, the entity that carries responsibilities to voters, council and its bodies, performs their mandate almost unchanged (see, for example, the USSR Law "About status of deputies of soviets workers' deputies in the USSR" September 20, 1972 [9]; USSR Law "About status of people's deputies in the USSR" September 20, 1972 (edited on April 19, 1979) [10]; USSR Law "About status of people's deputies in USSR" of December 21, 1989 [21]).

Such an eclectic model of constitutional and legal regulation of local self-government was a consequence of state development of constitutional doctrine of local government and self-government, which existed at the turn of the 80's – 90's of last century, with characteristic conclusions that, firstly, "the formation of a system of local self-government occurs through the search for new forms of implementation of the people's initiative, the changing functions, the reorganization of hardware-state structures, and inefficiently acting councils" which, at the same time, secondly, "although they haven't yet discovered their potential opportunities, but may well do this if they undertake radical transformations in their current political and legal status" and, thirdly, by virtue of latter, the recognition of "inappropriate proposals for" desovitization "as" complete liquidation of councils "and need" to ensure their transformation from actually representative bodies into effective local self-government" [3, c. 11].

Position on the necessity of using historical experience of formation, development and practical deputies activity in local self-government for improving the efficiency of deputies work in representative bodies of local self-government, including harmfulness oblivion "about accumulated experience in work of deputies in grassroots councils in Soviet times" and need "to use certain elements of status of a deputy of state councils in reforming status of deputy in representative bodies of local self-government" [1, p. 6].

Consequently, if transitional stage clearly affected the process of forming domestic model of local self-government and specific nature of its functions and credentials, then institution of deputy in local council, especially form of its activity, is rather inert and very slowly goes over to the principles role of servant in territorial community that is natural for him, and content tasks,

functions and practice of local council deputies, relative weight of socio-economic, democratic, humanistic principles remains tangible.

Focus on axiological, teleological aspects functions and of deputies activity in local councils aren't accidental.

After all, functions are a category of activity. Any conscious activity has a purpose, to achieve on which it is directed.

The specific purpose of deputy activity – this is what he must accomplish in his daily practical work as a deputy of a representative body of local government.

In process of achieving goals, deputy immediately or gradually solves tasks set before him, carrying out main directions of activity, that is, functions that are determined by the socio-political nature of deputy mandate.

In doing so, goals, tasks and functions are directly related to each other.

Implementation functions of deputies as main directions of their activities is ensured by their credentials, that is, rights and duties.

Therefore, there is a close connection between functions, credentials of deputies and the organizational forms of their activities, as each function must be secured by powers of deputy and realized in appropriate forms to his work.

Between norms defining functions of deputies, and norms defining their credentials, there are significant differences.

First kind of norms formulates goals that, in process of their implementation, turn into a result, second type of norms establishes the rights and duties of deputies, as well as defines basic organizational forms of their work [1, p. 16-17].

Перший вид норм формулює цілі, які в процесі їх реалізації перетворюються на результат, другий вид норм закріплює за депутатами права і обов'язки, а також визначає основні організаційні форми їх роботи [1, с. 16–17].

However, despite slow movement of municipal reform in Ukraine, such institutions of municipal law as status of deputy in local councils and organizational forms of their activities are gradually developing and improving in course of their implementation.

Evolving, institutional and functional foundations of status of deputy in local councils, first of all, organizational forms of their activities, are in constant interaction with other local government institutions (main forms of direct municipal democracy: local elections and referendums, public hearings, general meetings with population at place of residence, local initiatives, status of representative bodies of local self-government, status of rural, city mayors, status of a senior, status of service in local government bodies), which are more dynamically developing within a single function of local government.

After all, external functions of local self-government influence internal needs of territorial communities and tasks of their bodies and officials.

The external functions serve, as a kind of prolongation of internal functions of local government.

Therefore, general tendency of status of deputy in local councils, first of all, organizational forms of their activity, in modern conditions should be full modernization of whole system of local self-government, deployment of municipal reform in all directions: political, economic, social, organizational, functional, informational and others, as well as increasing role of human's factor in process of resolving issues of state and local life, etc.

There is no doubt that local self-government can't and shouldn't be formalized; role of state should be manifested not in the artificial inspiration of local self-government, its formal declaration, but in its permanent "partner" support in resolving socially significant cases.

The system of local self-government should become a product of social and political creativity of population, on the one hand, and purposeful efforts and support of the state, on the other.



Local government is a complex, multifaceted and multidirectional phenomenon, a process of development and improvement of status of deputy in local councils, first at all, organizational forms of their activity, complex and multifaceted.

Of course, each direction and type of reforming activity in sphere of local self-government, inherent in its peculiarities, however, due to internal unity of system of local self-government, principles, goals, tasks, functions of its subjects have much in common, that, to a certain extent, is manifested in activities of local council members.

Development of status of deputy in local councils and improvement mechanism of their organization and functioning is determined by internal and external, objective and subjective factors.

Great importance have internal objective factors (political, economic, social, etc.).

**Conclusions.** However, the most important role in development of municipal relations with participation of deputies in local councils is to further strengthen foundations of activities of local self-government bodies, in particular legal, organizational, financial, material and technical, scientific, as well as formation on basis of this revised state policy in the field of deputies status in local councils.

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