



CONCEPT OF RECOVERY OF LOCAL SELF-GOVERNMENT IN UKRAINE

Background

Ukraine has established the principles of local self-government in its constitution, ratified the European Charter of Local Self-Government, and adopted a number of basic legal acts that create the legal and financial framework for local governments. At the legislative level, efforts have been made to create equal conditions and opportunities for the provision of services to residents in all municipalities.

As a result of the decentralisation reform launched in 2014, local governments received new powers and financial resources, while administrative-territorial reform was carried out to amalgamate 29,831 localities into 1,470 village, settlement and city municipalities.

The success of the decentralisation reform was also confirmed with the outbreak of the full-scale invasion of Ukraine by the Russian army, when municipalities actively and fiercely resisted the Russian army and became part of the Joint Forces of the Armed Forces of Ukraine. The European Commission's Resolutions of June 2022 on the Copenhagen Political Criteria for membership stated that “with respect to multi-level governance, Ukraine’s decentralisation has advanced since 2014” and is “one of the most impactful and successful reforms implemented in the country”.

Due to the large-scale war, 6.2 million Ukrainian citizens fled the country, including about 2.1 million of the working age population. As of 31 December 2023, the amount of direct estimated damage to Ukraine's infrastructure reached approximately \$152 billion, with the housing (56%), transport (34%) and energy (11%) sectors suffering the most damage, and approximately 6% of all educational institutions in the country damaged or destroyed. Total reconstruction and recovery needs were estimated at \$486 billion (according to the updated Joint Rapid Damage and Needs Assessment (RDNA3) released on 15.02.2024 by the Government of Ukraine, the World Bank Group, the European Commission and the UN).

Russia's aggression against Ukraine has led to a change in the system of territory governance. As of 1 April 2024, the territories of 147 municipalities are under temporary occupation, with military administrations introduced in 185 municipalities, and already 257 municipalities are without village, settlement, or city mayors. Military administrations of localities are introduced instead of local governments without any criteria, including in the territories that are not occupied, where there are no active hostilities, and where village, settlement, and city councils are functioning. The Economist Intelligence Unit's (EIU) annual democracy ranking for 2023 places Ukraine in the group of countries with a hybrid regime.

The incomplete and war-affected decentralisation reform, destroyed infrastructure, industry and housing, de-occupied territories and large-scale migration of the population require a systematic approach to address the existing challenges, identify mandatory steps and the order of their implementation.

The European Commission's Ukraine 2023 Report of 08 November 2023 identifies the decentralisation reform as one of the important steps that allowed Ukraine to start negotiations on its accession to the European Union, and sets out the tasks that need to be completed to

continue the implementation of the European Charter of Local Self-Government and its principles in Ukraine.

Objective of the Concept

The objective of the Concept is to define a strategic vision of the restored local self-government throughout Ukraine, ways to create conditions for providing the residents of municipalities with quality and accessible services, opportunities for cultural growth and self-realisation of citizens, and economic development of municipalities, which together will ensure a comprehensive solution of the demographic crisis and bringing people back to their homes in a unitary independent Ukraine.

Ways and means of achieving the objective

To achieve the objective defined in this Concept, it is necessary, in compliance with the provisions of the European Charter of Local Self-Government, to:

1) provide local governments with full and exclusive powers (which may not be restricted in any other way than by law) to regulate and manage public services in the territories of their respective municipalities, with a clear division of powers at different levels, full implementation of the principle of subsidiarity and the introduction of mirror responsibility for providing residents with quality accessible public services;

2) create opportunities for employees of local governments to be professionally trained, remunerated and promoted based on personal qualities and competence;

3) envisage a limited scope of administrative supervision over the activities of local governments exclusively within the framework of the powers delegated to municipalities and in proportion to the interests claimed for protection;

4) provide local governments with exclusive powers within legislation to set local taxes and fees, to allocate available resources in a diversified and flexible manner (based on municipal statistics), while ensuring horizontal and vertical equalisation of budgetary inequalities without violating the freedom of local governments to pursue their own policies;

5) guarantee the free exercise by local governments of the functions assigned to them by law, the mandatory coordination with municipalities (their representatives) of all issues related to the exercise of these functions, as well as the ability of municipalities as legal personalities to protect their rights in court, as defined by the Constitution of Ukraine.

All the requirements of the European Charter of Local Self-Government, which will define, guarantee and protect local self-government, its rights and obligations, must be implemented in the Constitution of Ukraine.

Principles of reforming local self-government and territorial organisation of power

The following principles are mandatory for implementation and adherence in the recovery of local self-government:

- the principles defined by the European Charter of Local Self-Government, which are the common heritage of all signatory countries;

- 12 principles of good democratic governance, as defined in the Strategy for Innovation and Good Governance at Local Level of the Valencia Declaration "Good Local and Regional Governance – A European Challenge";

- the updated principles of public administration at the international level, including the ten guiding principles for effective decentralisation, defined in 2023 by the Organisation for Economic Cooperation and Development.

Tasks

The implementation of the Concept will create conditions in municipalities to best meet the needs and fully develop the capabilities of residents of all ages and different social statuses, and increase the democratic nature of all levels of government.

The demographic crisis, worsened by the consequences of hostilities, needs to be addressed, including at the level of the closest access of citizens to public authorities. Therefore, it is important to create conditions at the legislative level for citizens to fully exercise their rights to participate in decision-making through local self-government and directly, to build the institutional and financial capacity of local governments, their autonomy and independence in addressing local issues.

To achieve this, it is proposed to amend legislation and implement it in several areas.

1. Creating decent conditions for every resident of the municipality

1.1. Education and culture

The system of governance of educational and cultural institutions of all levels includes the participation of representatives of the municipalities in which these institutions are located. The system also ensures the coordination of state cultural and educational policies with the needs and opportunities for their implementation in municipalities in accordance with the Digital Education Action Plan (2021-2027) approved by the European Commission in 2020 and the Ukraine Report 2023 of the European Commission dated 8.11.2023 SWD (2023) 699.

1.2. Health and social services

Healthcare services for residents are provided in accordance with state healthcare programmes, accounting the healthcare system costs as a result of hostilities, according to the list of medical services and conditions. The Medical Guarantee Programme fully funds priority service packages, including rehabilitation of the wounded and psychological recovery of victims. The transformation of the healthcare network is carried out in accordance with hospital planning and is aimed at ensuring the provision of basic healthcare services by expanding primary healthcare services, introducing a model of multidisciplinary teams at the primary healthcare level, and implementing multi-year contracts between the National Health Service of Ukraine and healthcare institutions.

A system of coordination between state and local programmes for rehabilitation and socialisation of veterans has been created, which defines a state mechanism to ensure the provision of social services on an integrated model, with a transparent and open market of service providers whose main task is to ensure the maximum social integration of people with disabilities.

1.3. Urban planning and infrastructure

Urban planning norms are adapted to EU technical regulations, controlled by municipalities within the framework established by the law. Urban planning norms ensure the spatial development of municipalities, and inclusiveness of buildings for residents of all statuses, as stated in the Ukraine Report 2023 of the European Commission dated 8.11.2023 SWD (2023) 699.

1.4. Housing and utilities

Water and heat supply, waste management and other housing and utility services, as well as landscaping services, are provided in compliance with the adapted EU standards, in compliance with an economically justified tariff policy.

1.5. Regional development

The updated State Strategy for Regional Development is a long-term strategy based on EU principles and zoning instruments, which defines the criteria for restoring the territories destroyed in the war, the mechanisms for reconstruction and recovery, as well as the depth and level of state support for different types of territories to overcome the imbalances caused by the hostilities.

The State Strategy is synergised with regional and local strategies of municipalities, which include cultural, educational, social, economic and spatial development of municipalities and of Ukraine based on human centred approach.

1.6. Security

Mechanisms of cooperation and interaction between municipal authorities and security and defence, law enforcement and anti-corruption agencies have been established, and the Municipal Guard has been introduced to ensure that municipalities provide quality and accessible public services to the maximum extent possible.

2. Creating an effective participatory management system in local self-government

2.1. Scope and powers of local self-government

The division of powers between state and local governments based on the principle of subsidiarity should be finalised, with the maximum transfer of powers to the level of government closest to citizens, with the unification of powers of local governments and maximum digitalisation of their exercise.

Decisions on changing the boundaries/amalgamation/establishment of territories of municipalities, determining the centres of municipalities, naming/renaming of municipalities should be based primarily on the decision of these municipalities.

Ensuring guarantees of the independence of local governments through a clear division of their own and delegated tasks, and defined requirements for their own and delegated powers.

2.2. Accountability and controllability of municipal authorities

The accountability and controllability of local governments is ensured primarily by the judicial system. In addition to judicial guarantees of ensuring the rights of municipal residents in the provision of public services, the accountability and controllability of elected local governments is ensured by the implementation of direct democracy through the creation of opportunities for transparency of decisions, internal processes and responsibility, as well as direct democracy for citizens living in the respective municipalities, as well as mandatory internal and external audits. In terms of delegated powers, controllability is additionally ensured by the relevant supervisory functions of public authorities, defined exclusively by law and assigned to one local authority, with the exclusion of duplication and ensuring proportionality. The rights of residents of municipalities, exercised by the choice of the person

concerned, may not be restricted in any way other than as defined by the law on the work of local governments.

2.3. Democracy at the local level

Through free and fair elections throughout Ukraine, the recovery of local self-government in all municipalities is ensured as soon as possible. The electoral right of every citizen to elect and be elected to local governments, regardless of the location of the municipality, is guaranteed by the state with mandatory observance of security conditions for participants in the electoral process and without partisanship of local elections in municipalities with a population of up to 90,000 voters.

2.4. Ensuring quality consultations

A guaranteed obligation for public authorities to consult with the All-Ukrainian Association of Local Governments on all issues related to the functions and powers vested in local governments by law is introduced.

At the municipal level, public dialogue and systematic consultations are held on all issues of interest to residents.

2.5. Inter-municipal cooperation

Municipalities around large cities and neighbouring interconnected municipalities, including those destroyed by hostilities, are provided with conditions to strengthen metropolitan areas, create agglomerations for mutual urban planning, joint economic growth and increase local budget revenues, and provide residents with the highest quality and most accessible services.

Partnerships have been developed between municipalities across Ukraine and with municipalities in the European Union and around the world, which strengthens local self-government, improves the quality of services to residents and increases interaction within the country and with international partners.

2.6. Economy

Municipalities are financially self-sufficient and independent, have all the possibilities to account for and manage their own territories, assets, financial and other resources. To this end, at the state level, in accordance with the recommendations of the Ukraine Report 2023 of the European Commission dated 8.11.2023 SWD (2023) 699:

2.6.1. the right of municipalities is defined to set rules for regulating the activities of business entities and tools for promoting job creation through decisions of their respective councils;

2.6.2. municipal registers of objects and payers of local taxes and fees, which are the basis for the relevant charges, are introduced in the national system, with the exclusive right of local governments to establish exemptions for these payments;

2.6.3. a single rule for the accounting and payment of taxes and fees has been established – at the address where the obligation to pay arises;

2.6.4. financial base is available, which primarily consists of municipalities' own adequate taxes and, if necessary, additional unconditional grants;

2.6.5. a vertical and horizontal formula for equalising the tax capacity of municipalities per capita, as well as fair and transparent mechanisms for transfer policy rules, are introduced;

2.6.6. the rule of subsidies to local governments is defined to ensure their powers, while preserving the fundamental freedom of municipalities to pursue their policies within their own competence;

2.6.7. municipalities are granted access to the national capital market to make investment capital loans.

Stages of the Concept implementation

The Concept will be implemented in two stages.

The first stage is on the way to our Victory, to the complete liberation of the entire territory of Ukraine.

Providing residents of municipalities throughout the government-controlled territory of Ukraine with vital services, preserving human resources, including in the temporarily occupied territories, rebuilding destroyed facilities and planning for overall recovery.

Defining the peculiarities of the activities of local governments, their cooperation with local executive authorities, establishing exceptional grounds for the introduction of military administrations in special conditions, organising procedures for the restoration of powers of persons in elected positions.

Application of an asymmetric approach to the reconstruction and recovery of municipalities that as a result of hostilities are located in different territories:

- 1) temporarily occupied territories,
- 2) territories of active hostilities,
- 3) de-occupied territories,
- 4) core territories,
- 5) rear territories.

Depending on the type of the territory, a differentiated approach will be formed, with different areas of effort to meet different needs and achieve the greatest synergy in the development of the territories.

Drafting of regulatory acts at all levels, their discussion in municipalities, at the regional and national levels between representatives of local self-government and public authorities to implement this Concept.

The second stage – during ten years after our Victory.

To abandon the institution of military (civil-military) administrations as soon as possible by holding local elections throughout Ukraine with the main criterion for their possibility being the safety of participants. Defining the criteria and full procedure for their application in case of impossibility of holding elections by law.

Institutional and financial support for the independent operation of local governments with a participatory system of governance, their interaction and representation.

Local public infrastructure is reconstructed by local governments at the expense of subsidies from the central government according to the assessed damage and an adequate share of donor assistance from foreign partners for the restoration and reimbursement by the Russian Federation.

All local governments are able to provide residents with quality and accessible services, opportunities for cultural growth and self-realisation, and economic development of the restored municipalities.

Conditions for full-fledged democratic local self-government in Ukraine are created.

Expected outcomes

The Concept should be implemented simultaneously with the nationwide transformation both to address the demographic crisis and on the path to Ukraine's accession to the European Union and NATO, while ensuring the implementation of the recommendations of the Ukraine Report 2023 of the European Commission dated 8.11.2023 SWD (2023) 699:

- 1) creating the conditions for the full observance of human rights in all areas of people's activities through the implementation of relevant legislation and guaranteed judicial protection of rights at all levels;
- 2) changing the legislative regulation of economic activity to requirements and rules that will prevent personalised decision-making in the provision of public services, and creating a corruption-free management system;
- 3) ensuring compliance with the environmental component when adopting legislation for the safety of future generations.

The process of implementing the reforms will balance social, economic and environmental sustainability as envisaged in the seventeen mutually reinforcing Sustainable Development Goals adopted by the United Nations.

Comparison of all draft resolutions of public authorities for compliance with this Concept will help to define a strategic vision of local self-government restored throughout Ukraine, conditions for the development of cultural and economic development of municipal residents, provision of quality and accessible services, opportunities for self-realisation, which will increase the number of municipal residents and the population of Ukraine as a whole.

For Ukraine's recovery to succeed, close, sustained and institutionalised cooperation based on mutual trust and respect between all levels of government is essential. The associations of local governments have to play an important role in this process.

Criteria for effective implementation of the Concept

To assess the dynamics of development of separate municipalities, municipalities in the respective types of territories and the state of development of local self-government in general, indicators (criteria) from the Criteria for effective implementation of the Concept of delivery and results should be identified and formed into a comprehensive monitoring and evaluation structure. Accordingly, the implementation of the Concept will be assessed according to these criteria, taking into account the OECD Recommendations for Improving the Performance Measurement System of Municipalities in Ukraine.

The criteria of impact will include:

- 1) the number of events held with the involvement of the public;
- 2) the application of vertical and horizontal equalisation of local budgets per capita;
- 3) the amount of local tax and fee revenues in local budget revenues (in 2021, local tax and fee revenues accounted for 28% of local budget revenues);
- 4) the degree of dependence of municipal budgets on transfers from the state budget (in 2021, transfers from the state budget accounted for 38% of local budget revenues);
- 5) the share of capital expenditures in the structure of local budgets (in 2021, the share of capital expenditures of local budgets was 20%);
- 6) the number of types of services provided by municipal departments and enterprises to residents;

- 7) the number of services received from the municipality, including per capita;
- 8) the number of public spaces in municipalities (in 2017, there were 34,000 public spaces in municipalities, including libraries, clubs, cultural centres, and theatres);
- 9) the area of parks, squares, recreation areas, including in relation to the total area and population of the municipalities;
- 10) number of inter-municipal, including international, partnerships.

The result criteria will include:

- 1) the number of municipal residents, including school and preschool age children (in 2021, 41.8 million people lived in Ukraine, including 4.2 million school-age children and 1.3 million preschool age children);
- 2) the average salary in municipalities, including for local government employees (in 2021, the average salary was UAH 14.3 thousand, including municipal employees - UAH 17.7 thousand) and the real wage index (in 2021, 112%);
- 3) the number of employed persons, including individual entrepreneurs (in 2021, the number of employed persons was 14.8 million, and the number of individual entrepreneurs was 2 million);
- 4) unemployment at the local level;
- 5) the share of residents receiving social payments and/or privileges for housing and utility services;
- 6) the quality of education in the municipalities (in 2018, 46.4% of schoolchildren achieved PISA level 3 (1 - poor, 6 - best) and above in reading literacy, 37.9% in mathematics, and 43.6% in natural sciences);
- 7) consumption of water and energy resources by households;
- 8) the share of household income spent on housing and utility services (as of November 2021, an average Ukrainian family of two adults and one child living in a 60 square metre apartment and earning UAH 28,500 per month for two people spends about 13.5% of their income on utilities);
- 9) the efficiency of the municipality through the ratio of revenues, expenditures and debt per capita.

The Concept incorporates the proposals of:

- **Professor Georg Milbradt**, Special Envoy of the German Government for Decentralisation, Good Governance and Public Service;
- **Nikolaus-Komninos Hlepas**, Vice-Chairman of the Group of Independent Experts on the European Charter of Local Self-Government of the **Congress of Local and Regional Authorities of the Council of Europe**;
- **Council of European Municipalities and Regions (CEMR)**;
- voiced at the meeting of the **European Alliance of Cities and Regions for the Reconstruction of Ukraine of the European Committee of the Regions** on 08.12.2023.

**The Concept was approved
by the Board of the Association of Ukrainian Cities
by the decision of 1 April 2024 №7**



**ASSOCIATION OF
UKRAINIAN CITIES**
BY JOINT EFFORTS