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THE CONCEPT AND SPECIFICS OF SELF-ORGANIZATION BODIES OF THE POPULATION

Tytykalo R.,

Assistant of the Department of Health Management
of the Institute of Postgraduate Education
of Bogomolets National Medical University,
Candidate of Law, Advocate
<https://orcid.org/0000-0002-6406-8800>

Титикало Р. Поняття та специфіка органів самоорганізації населення.

У розрізі реалізації власних та делегованих повноважень керівником органу самоорганізації населення жителів певної території актуальним питанням залишається необхідність чіткого розмежування повноважень органів самоорганізації населення регіонального, субрегіонального та базового рівнів. Адже такі повноваження в частині розподілу коштів та фінансуванні програм дублюються. Знову ж таки, виникає питання: яким чином власні та делеговані повноваження передати від голів рад? Який механізм такої передачі? Нажаль, на сьогоднішній день, дані процедури не визначені лише в Законі України «Про місцеве самоврядування в Україні» визначено, що делегування повноважень ради може відбуватися на її засіданні шляхом голосування.

Ззначається, що фінансування діяльності органів самоорганізації населення здійснюється на засадах співфінансування. В той же час, акцентуємо увагу, що лівовою частиною фінансування є все ж таки, ті фінанси, які виділяються з місцевого бюджету, що ускладнює фінансову самостійність досліджуваного суб'єкта та вільність у виборі статей витрат та першочергових проектів розвитку, а також при прийнятті рішення та його подальшій реалізації по направленню джерел фінансування на першочергові та планові потреби відповідної території за територіальним принципом.

Визначено, що органи самоорганізації населення – це самостійний інститут місцевого самоврядування, діяльність якого спрямована на побудову ефективного та розвинутого громадського середовища в межах визначеної межами адміністративно-територіальної одиниці самостійно жителями та їх представниками для підвищення якості життя, надання житлово-комунальних та інших послуг, покращення стану соціально-культурного, інфраструктурного розвитку території та прийняття активної участі в співпроектванні програм розвитку.

Особливості органів самоорганізації населення: 1) є інструментом місцевої демократії; 2) бе-

руть активну участь в реалізації реформи децентралізації та доступу до ресурсів; 3) забезпечують контроль та якість послуг для жителів відповідної одиниці; 4) перебувають у постійному та тісному взаємозв'язку з сільськими, селищними та міськими радами; 5) максимально враховують потреби місцевої спільноти та відстоюють їх при співпраці з органами публічної влади; 6) сприяють активнішому вирішенню локальних проблем та сприяють розвитку даної території.

Ключові слова: публічна влада, механізм держави, місцеве самоврядування, публічно-правова сфера, публічне адміністрування, органи самоорганізації населення, територіальна громада.

Tytykalo R. The concept and specifics of self-organization bodies of the population.

Undoubtedly, when solving the issue of early termination of the powers of the body of self-organization of the population, it will be necessary to be guided by the basic law, but the existence of a situation in which one legislative act defines some grounds, and another provides a broader list, in our opinion, creates problems of violation of legal technique when solving this issue. In our opinion, these grounds should be either identical, or in the matter of regulating the administrative-legal status of self-organization bodies, the Law of Ukraine «On Local Self-Government in Ukraine», in terms of early termination of powers, should contain blanket norms. At the same time, the legislator must in any case settle this issue in order to avoid double interpretation of this provision.

Therefore, the bodies of self-organization of the population are an independent institution of local self-government, the activity of which is aimed at building an effective and developed public environment within the boundaries of the defined administrative-territorial unit independently by residents and their representatives to improve the quality of life, provide housing and communal and other services, improve the state socio-cultural, infrastructural development of the territory and acceptance of active participation in the co-design of development programs.

Peculiarities of self-organization bodies: 1) they are a tool of local democracy; 2) take an active part in the implementation of the reform of decentralization and access to resources; 3) ensure control and quality of services for residents of the respective unit; 4) are in permanent and close relationship with village, settlement and city councils; 5) maximally take into account the needs of the local community and defend them in cooperation with public authorities; 6) contribute to a more active solution of local problems and contribute to the development of this territory.

Key words: public power, state mechanism, local self-government, public-legal sphere, public administration, bodies of self-organization of the population, territorial community.

Formulation of the problem. The formation of civil society is carried out through the decentralization of power, self-organization of the population, strengthening of motivation of local communities for self-development based on self-government, use of local resources and own capabilities. A manifestation of self-organization is the ability of a person to organize his activities for the fullest realization of his own creative potential through self-actualization, self-education, self-learning, and self-control. For the administrative and territorial reform, self-organization of the population becomes important as a factor in the development of regional infrastructure. As a form of management, self-government gives a public organization the right to independently resolve issues of internal management. Local self-government ensures the integrity of the system of social relations directly related to the territorial self-organization of the population, which determines the organizational form of functioning of local government, independently or under the responsibility of self-government bodies and officials, resolves issues of local importance within the limits of the Constitution and laws of Ukraine. It should be noted that the creation of an initiative group and the selection of a leader (of local self-government bodies) does not mean that the local residents are self-removed from solving vital social problems.

The **purpose** of the article is to define the concept and specifics of self-organization bodies of the population.

Research status. The problems of the role and importance of local self-government bodies in the system of state authorities were dealt with by: V.B. Averyanova, V.F. Pohorilko, Yu.S. Shemchushenko, M.V. Tsvika, V.D. Tkachenko, O.V. Petryshyn, O.V. Batanov, M.A. Baimuratov, V.A. Grigoriev, I.S. Shchebetun, P.A. Trachuk, V.S. Kostytskyi.

Presenting main material. Bodies of self-organization of the population are one of the

forms of manifestation of the activity of public society institutions. In the process of reformation transformations and Europeanization of Ukrainian society, the right and opportunity for self-expression and development are primary vectors on the way to the European Union of candidate countries.

The Laws of Ukraine «On Bodies of Self-Organization of the Population» and «On Local Self-Government in Ukraine» define that bodies of self-organization of the population are representative bodies created by residents who legally reside in the territory of a village, town, city or their parts, to solve tasks [3; 2].

The body of self-organization of the population is formed with the permission of the district council in the city and is guided in its activities also by the decisions of the city council and its executive body. Bodies of self-organization of the population of the respective territory (provided that they represent the interests of at least one third of the members of the respective territorial community) can be initiators of the voluntary association of territorial communities of villages, towns, and cities [1].

The body of self-organization of the population is created on a territorial basis. The territory within which the body of self-organization of the population operates can be a part of the territory of a village, town, city, district within the city, within which residents who have elected this body live. The territory within which the body of self-organization of the population operates is determined by the decision of the council that gave permission for the creation of: a) village, settlement committee - within the territory of the village, settlement, if its boundaries do not coincide with the limits of activity of the village, settlement council; b) street, quarter committee - within the territory of a quarter, several, one or part of a street with adjacent alleys in places of individual development; c) microdistrict committee - within the territory of a separate microdistrict, housing and operating organization in cities; d) house committee - within a house (several houses) in the state and public housing fund and the fund of housing and building cooperatives; e) district committee in the city - within one or more districts in the city, if its boundaries do not coincide with the boundaries of the district council in the city [3].

The administrative procedure for creating a body of self-organization of the population consists of the following stages:

Stage 1: addressing meetings (conferences) of ½ of the residents at their place of residence and creation of a body of self-organization of the population and adoption of a decision on creation. The decision is drawn up in the form of a protocol, which has legal force for further procedural actions;

Stage 2: preparation and submission of an application for the establishment of a body of self-organization of the population;

Stage 3: adoption of a decision by the village, settlement, city, district council in the city (if it is created) to grant permission to create a body of self-organization of the population or refuse to create it;

Stage 4: in case of a positive decision, the body of self-organization of the population is legalized in one of two ways: registration or notice of establishment;

Optional stage 5: appeal against the decision to refuse registration of the body of self-organization of the population.

Having introduced the stages of the administrative procedure for the creation of a body of self-organization of the population, it should be noted that, in our opinion, it has features that create relevant difficulties from a legal point of view in the matter of registration of a body of self-organization of the population as a legal entity.

The main tasks of the self-organization bodies of the population are: 1) creating conditions for the participation of residents in solving issues of local importance within the limits of the Constitution and laws of Ukraine; 2) satisfaction of social, cultural, household and other needs of residents by assisting in providing them with appropriate services; 3) participation in the implementation of socio-economic, cultural development of the relevant territory, other local programs [3, Article 3].

At the same time, this list is not exhaustive, and the range of performed tasks is much wider.

In our opinion, the main tasks of self-organization bodies of the population, in addition to those defined by law, are:

1) establishment and improvement of the communication process between the bodies of self-organization of the population, representatives of local self-government and state authorities and public organizations;

2) solving issues of local importance in a certain administrative territory;

3) provision and improvement of the quality of housing and communal services in the territory of the functioning of the body of self-organization of the population;

4) representation and protection of the rights and interests of residents of the territory under the jurisdiction of the body of self-organization of the population;

5) carry out information and explanatory work among residents regarding the performance of their duties and discussion of development projects of the territory of the body of self-organization of the population.

The organizational structure of the body of self-organization of the population consists of a leader and a secretary; members (residents) by place of residence on the creation of a body of self-organization of the population.

The body of self-organization of the population is elected for the term of office of the corresponding

council, unless otherwise provided by the decision of the council or the regulation on the body of self-organization of the population [3]. Chapter 3 of the Law of Ukraine «On Bodies of Self-Organization of the Population» defines the list of own and delegated powers of bodies of self-organization of the population.

The self-organization body of the population has its own powers: 1) to represent, together with the deputies, the interests of the residents of the house, street, microdistrict, village, settlement, city in the relevant local council and its bodies, local executive bodies; 2) promote compliance with the Constitution and laws of Ukraine, the implementation of acts of the President of Ukraine and executive bodies, decisions of local councils and their executive bodies, orders of the village, settlement, city mayor, the head of the district council in the city (if it is created), decisions made by local referendums; 3) make proposals in the prescribed manner to projects of local socio-economic and cultural development programs of the relevant administrative-territorial units and projects of local budgets; 4) to organize on a voluntary basis the participation of the population in the implementation of measures for the protection of the natural environment, the implementation of improvement works, landscaping and maintenance in proper condition of estates, courtyards, streets, squares, parks, cemeteries, mass graves, equipment of children's and sports grounds, rooms children's creativity, interest clubs, etc.; for this purpose, temporary or permanent brigades can be created, other forms of population involvement can be used; 5) to organize on a voluntary basis the participation of the population in the implementation of measures for the protection of historical and cultural monuments, the liquidation of the consequences of natural disasters, the construction and repair of roads, sidewalks, utility networks, public facilities in compliance with the procedure for carrying out such works established by law; 6) control the quality of housing and communal services provided to citizens living in residential buildings on the territory of the population self-organization body and the quality of repair work carried out in the specified residential buildings; 7) provide assistance to educational institutions, institutions and organizations of culture, physical culture and sports in carrying out cultural and educational, sports and recreational and educational work among the population, development of artistic creativity, physical culture and sports; to contribute to the preservation of cultural heritage, traditions of folk culture, the protection of historical and cultural monuments, the introduction of new rituals into everyday life; 8) organize assistance to elderly citizens, persons with disabilities, families of fallen soldiers, partisans and servicemen, low-income and families with many children, as well as single citizens, orphans and children deprived of parental

care, other vulnerable groups of the population to make proposals on these issues to local self-government bodies; 9) provide the necessary assistance to the fire supervision authorities in the implementation of fire prevention measures, organize the public's study of fire safety rules, participate in the implementation of public control over compliance with fire safety requirements; 10) assist law enforcement agencies in ensuring the protection of public order in accordance with the legislation; 11) to consider appeals of citizens, conduct reception of citizens; 12) keep records of citizens by age, place of work or study, who live within the territory of the body of self-organization of the population; 13) assist deputies of the relevant local councils in organizing their meetings with voters, receiving citizens and conducting other work in electoral districts; 14) to inform citizens about the activities of the body of self-organization of the population, to organize a discussion of its draft decisions on the most important issues [3].

The village, township, city, district council in the city (if it is created) may additionally grant a part of its powers to the body of self-organization of the population with the simultaneous transfer to it of additional funds, as well as material and technical and other resources necessary for the exercise of these powers, exercise control over their implementation [3].

In our opinion, there should be maximum delegation of powers to the primary basic level, because the closer the level of perception of the population's needs is approached, the more efficient and effective is the forecasting and planning of the tasks and goals of the activities of the local self-government bodies of the corresponding territory of the functioning of a specific body of self-organization of the population. At the same time, the powers that can be delegated to house, street, quarter committees, microdistrict committees, district committees in cities, village, settlement committees should be clearly demarcated. After all, the same powers cannot be delegated, for example, the development of development programs. We believe that when solving this issue, it is still necessary to proceed from the scope of functions and territory of activity of this body of self-organization of the population.

In terms of the implementation of own and delegated powers by the head of the body of self-organization of the population of residents of a certain territory, the need for a clear demarcation of the powers of self-organization of the population at the regional, subregional and basic levels remains an urgent issue. After all, such powers in terms of allocation of funds and financing of programs are duplicated. Again, the question arises: how to transfer own and delegated powers from the heads of councils? What is the mechanism of

such transmission? Unfortunately, to date, these procedures are not defined only in the Law of Ukraine «On Local Self-Government in Ukraine» it is determined that delegation of council powers can take place at its meeting by voting.

The cases of early termination of the authority of the body of self-organization of the population are defined in Article 80 of the Law of Ukraine «On Local Self-Government in Ukraine» and Article 25 of the Law of Ukraine «On Bodies of Self-Organization of the Population». However, the list of these grounds varies. Thus, Article 80 of the Law of Ukraine «On Local Self-Government in Ukraine» identifies the following grounds: 1) non-implementation of decisions of the village, settlement, city, district in the city (if it is created) council, its executive committee, general assembly of citizens or non-fulfillment of their powers ; 2) its self-dissolution. The decision on the early termination of the powers of the body of self-organization of the population is taken by the general assembly of citizens who formed this body, or by the corresponding council [2, Article 80].

Whereas, Article 25 of the Law of Ukraine «On Bodies of Self-Organization of the Population» states that the powers of the body of self-organization of the population may be prematurely terminated in the event of: 1) non-implementation of the decisions of the village, settlement, city, district council in the city (if it is created), its of the executive committee – by decision of the relevant village, settlement, city, district council in the city (if it is created), which gave permission for its creation; 2) non-fulfillment of decisions of the meeting (conference) of residents at the place of residence or failure to fulfill their powers, as well as self-dissolution – by decision of the meeting (conference) of residents at the place of residence; 3) violation of the Constitution and laws of Ukraine, other acts of legislation - by court decision; 4) in the case of reconstruction or reorganization of buildings, streets, quarters, microdistricts, districts in cities, villages, towns, within the boundaries of which they operate, if such reconstruction, reorganization is connected with the resettlement (resettlement) of residents who participated in the meetings (conferences) that founded this body [3, Article 25].

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Conclusions. Therefore, the bodies of self-organization of the population are an independent institution of local self-government, the activity of which is aimed at building an effective and developed public environment within the boundaries of the defined administrative-territorial unit independently by residents and their representatives to improve the quality of life, provide housing and communal and other services, improve the state socio-cultural, infrastructural development of the territory and acceptance of active participation in the co-design of development programs.

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