

INSTITUTIONALIZATION OF CIVIL SOCIETY IN INDEPENDENT UKRAINE

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INTRODUCTION

The modern democratic state is based on a developed system of social institutions. And this is a certain paradox, because these institutions destroy the traditional, state-controlled hierarchy. A sign of the present days is the struggle between hierarchies and networks, between horizontal and vertical management structures. Society develops more rapidly than public administration under conditions of transformation, and the old hierarchical organization is no longer keep pace with developing of science, innovation, economics, and changes in society as a whole. To help the hierarchical management vertical comes the networking of public associations, although cooperation is not always smooth. Developed social networks in modern democratic states are united in civil society.

In Ukraine, we are witnessing strong protest moods against the old hierarchical administration system. The Revolution on Granite, the Orange Revolution, the Revolution of Dignity is a testimony to this fact. But modern civil society is determined not only by protests, but mostly by creative potential. What determines the development and potential of civil society in Ukraine?

1. Imperatives of the development of civil society

The history of self-government in Ukraine dates back to the times of Kievan Rus and forms part of the state-building processes. Ukrainian historian M.Kostomarov describing the role of the "Viche" (Chamber) in the system of governance of the state noted that the Viche adopted a decision on management, conducted agreements with the lords of other lands, declared war, made peace, lead the army for protection of the country, determined the trade law and the quality of the coin, established

rules and laws, according to which Viche was a legislative power, and at the same time – a judicial one, especially in cases involving civil rights¹.

According to R.Lashchenko, in addition to the functions of the legislative and judicial branches of power, the Viche was endowed with controlling functions, in particular, the people's assemblies could "judge, banish and punish the secondary powers that were established by the princes, and sometimes the princes themselves"². The facts presented by B. Bernadsky give us reason to believe that the Viche was the prototype of Ukrainian parliamentarism³.

In the fourteenth century, Magdeburg Law was spread on Ukrainian lands and had an impact on the further development of local self-government in Ukraine. Magdeburg Law gave the city community the opportunity to exercise local government based on the experience of the German city of Magdeburg. For this reason, in a number of documents it was called the German or Saxon law. The essence of Magdeburg Law was that the urban population was exempted from the jurisdiction of the central state administration (feudal lords, military commanders and governors), and cities were able to self-government with their own local authorities⁴.

The Ukrainian Cossack-Hetman state got its proper place among the European states in the XVII century. The Cossack state had its own council, which consisted of general officers, colonels and elected deputies. Hetman was the head of the state. The Sejm met three times a year, and gathered the heads, deputies and ambassadors from the Zaporozhian army. The strict control over the Hetmans' funds that was envisaged. The democratic principles of governance were introduced to all classes of society, and especially to the Cossacks, as well as to the cities.

The Constitution of P. Orlik, which was concluded in 1710, was the ultimate manifestation of the progressive liberalism.

During the nineteenth and twentieth centuries, Ukrainian society has passed 3 important stages: imperial, revolutionary and Soviet. And mostly, the public initiative either opposed the state, or acted as a substitute for

¹ Костомаров М. Исторические монографии. Исследования. Т. VII, ч II. Северорусские народоправства во времена удельно-вечевого уклада (история Новгорода, Пскова и Вятки) / Н.И.Костомаров. СПб, 1886. – С. 34.

² Лашченко р. Лекції по історії українського права / р. Лашченко. – К.: Україна – Ч. 1.: Княжа доба. – Ч. 2: Литовсько-польська доба. – 1998. – С. 106.

³ Імперативи формування громадянського суспільства в умовах модернізації державного управління в Україні: головні виміри та виклики: кол. монографія / Л.В. Гонюкова, Є.І. Таран, В.Л. Голуб, та ін. – Київ: Національна академія державного управління при Президентіві України, 2017. – С. 10-11.

⁴ Грицяк І. Місцеве самоврядування України в історії та сучасності // Вісник УАДУ. – С. 1996. – № 1. – С. 57.

state institutions, when they were in a state of insolvency. This explains the strong protest attitude of Ukrainians and the non-acceptance (at the mental level) of the authorities, given that for many centuries it was foreign.

Civil society is formed "from the bottom", spontaneously, as a result of emancipation of individuals, turning them into free citizens-owners who have a sense of dignity and are ready to assume economic and political responsibility for their actions.

The language of every nation reflects its life. Exploratory analysis of words explains the mentality, mood and aspiration of the people. Realization of language imperatives was not always easy and dynamic, since the old political culture is inertial and actively supported by its carriers. The categorical language imperatives as a cultural-genetic code of Ukraine were actively dubbed by slogans from our contemporaries, like the lines of poetry of Taras Shevchenko. But not that Shevchenko's lines that young Ukrainians teach as a homework or only on the occasion of the Shevchenko days, but the ones that are cited consciously "in a terrible hour of fierce, in a good day of liberty and in a miserable moment", as Andriy Malyshko wrote in his poetry "Taras Shevchenko"⁵.

Today, the use of Russian terms remains a problem for Ukraine, which is the result of centuries of Russian domination in Ukraine. So, a lot of our executives call government as «pravitel'stvo», although the etymology of these concepts is different. The Ukrainian phraseological dictionary gives an explanation of the word "ryadyty" – to judge, manage, direct. (Zaporozhtsy are now the first lords in Ukraine: I appointed them as a colonels; they will judge and rule them in the Cossack customs of the entire Ukraine (P. Kulish); ≤Pan: ≥ I will judge you. Marusia, I told you – do not dare to give up, as I will judge and decide: I am a ruler here (M. Kostomarov)⁶.

Another interpretation of the word gives "Yurinkor Inter" in the article "Inheritance for the princely era of Kievan Rus-Ukraine". "The term "ryadyty" (in the cited Greeks' treaty with Russia -"ryadyty") means the right to divide property or manage inheritance. Also, the concept of "ryad" was used as a contract of the prince with the people or with his wife. The

⁵ Імперативи формування громадянського суспільства в умовах модернізації державного управління в Україні: головні виміри та виклики: кол. монографія / Л.В. Гонюкова, Є.І. Таран, В.Л. Голуб, та ін. – Київ: Національна академія державного управління при Президентові України, 2017. – С. 52.

⁶ Український фразеологічний словник. – [Електронний ресурс]. – Режим доступу : http://getword.ru/ukr/slovari.php?word=%D1%81%D1%83%D0%B4%D0%B8%D1%82%D0%B8+%D1%96+%D1%80%D1%8F%D0%B4%D0%B8%D1%82%D0%B8&table=uk_fraz

distribution of the inheritance was carried out only among a narrow circle of those heirs who had the right to inherit in the custom of their ancestors"⁷.

"Ryad" in ancient Russia is a traditional treaty of "free people" with the prince, – wrote the Russian emigrated historian V. Pashuto⁸. In addition, one of the layers of the population during the early Middle Ages (Kievan Rus) was rank-and-file people – a personally dependent population in Ancient Russia. From the "Rus Truth" known princes and boyars R. The term "rank" interpreted in different ways (from "to put up" – to enter into an agreement, "run" – to supervise the work, "ryadovoy" – ordinary). Most likely, R. – people who were hired by princes or boyars to work for contract, according to their social status, were approached as smerds and semi-dependent slaves⁹.

In the dictionary of Ivan Franko under the letter "r" we can find the interpretation of the word "ryad" which means "uryad", "government" [XII] – "government", "self-government"¹⁰.

Consequently, we can conclude that the word "government" comes from the Old Rus' (please do not confuse with Russia) word "ryad", which means agreement, agreement, contract. And this means that the social agreement was the basis of the management of ancient Ukraine-Rus', where one of the institutes of such governance was the Chamber. And only later, theoretically, the idea of a social agreement was developed by T. Hobbes, J. Locke, J.-J. Russo. When we use the term "government", we understand that these are people who govern the state in accordance with a social contract, which testifies to the democratic spirit of the Ukrainian people and the desire to build their existence on a democratic basis.

The formation of a full-fledged civil society in Ukraine should be ensured by legal and political conditions. Political parties are the mechanism of political participation of citizens. Political parties represent the interests of different segments of the population and are an institution of civil society if they are not in power. The presence of political parties in society proves its high development and the presence of civilian culture.

⁷ Спадкування за княжої доби Київської Русі-України. – [Електронний ресурс]. – Режим доступу : http://yuricom.com/ua/yuridichniy_visnyk_ukrayiny/overview/?id=1268.

⁸ Пашуто В. Т. Русь. Прибалтика. Папство. Избранные статьи. – М.: Русский фонд содействия образованию и науке, 2011. – С.60-64.

⁹ Вілкул Т.Л. Рядовичі. – [Електронний ресурс]. – Режим доступу: <http://www.history.org.ua/?termin=Riadovychi> (останній перегляд: 24.11.2017)

¹⁰ Словничок з творів Івана Франка. – [Електронний ресурс]. – Режим доступу: <https://zbruc.eu/node/26112>

For the establishment of civil society in Ukraine, freedom of speech is a crucial imperative, as the human right to freely express their thoughts and views in oral and written form. Freedom of speech is a tool to ensure awareness and support of a high level of competence of public authorities.

The establishment and the exercise of state power based on the principle of national sovereignty, which is realized through free, fair and democratic elections. The essence of it is the formation of state and local government as a defining feature of a democratic, rule-of-law state that ensures the free existence of a civil society. Officials are elected on the basis of democratic procedures. Due to the elections, the composition of representative bodies is formed and the change of election positions in state bodies is carried out, where, in accordance with their official duties, each person makes managerial decisions for social development. The referendum is intended for direct decision-making on the most important issues of public life by direct expression of the will of citizens during a popular vote. In modern democratic countries referendums are one of the most important forms of exercising popular sovereignty and an instrument of civil society. Referendum helps to decide on the accession of Spain to NATO, the UK – to the EU, Switzerland – to the UN. The constitution of Denmark, Estonia, Lithuania, Poland, Turkey, and France was also shaped thanks to the referendum. Elections and referendums are an effective instrument for realizing the right of national sovereignty only when the civil society culture is at a sufficiently high level.

2. Institutionalization of civil society in modern Ukraine

The regulation of the activities of individual components of civil society was being ensured, in particular, by the Laws of Ukraine "On Citizens' Associations", "On Social Dialogue in Ukraine", "On Local Self-Government in Ukraine", "On Information", "On Trade Unions, their Rights and guaranties of activities", "On Youth and Children's Public Organizations", "On Employers' Organizations", "On the Bodies of Self-Organization of the Population", "On Professional Creative Workers and Creative Unions", "On Charity and Charitable Organizations", "On Volunteers", "On Freedom of Conscience and Religious Organizations", "On Social Services", "On the Principles of State Regulatory Policy in the Field of Economic Activity", "On Access to Public Information", "On Free Legal Aid".

The adoption of the Law of Ukraine "On Ukrainian and Local Referendums" in 1991 contributed to the democratic transformation in Ukraine, which permitted a state referendum on the confirmation of the Declaration of Independence of Ukraine adopted by the Verkhovna Rada of Ukraine on August 24, 1991¹¹. The referendum took place on December 1, 1991 and was marked by almost unanimous support of the citizens of Ukraine for its independence. These changes took place under the pressure of a newborn civil society, whose manifestation was massive actions of the People's Movement and the Revolution on Granite.

The young state was required to legalize public and political organizations that actively influenced its creation. In 1992, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Citizens' Associations", dated June 16, 1992, No. 2460-XII, which was in force until 2013¹². The law introduced civil society organizations and political parties in the legal field, outlined their rights and responsibilities, which contributed to their establishment. Let's remind that before 1991 one-party system prevailed, and civic organizations were created only on the initiative of the Communist Party. Further reduction of the political system of Ukraine to democratic standards required changes in the legal status of both public associations and political parties. The state had to work out rules for interaction with civil society.

An important stage in the development of the legal field of civil society was the adoption of the Constitution of Ukraine on June 28, 1996 (changed on December 8, 2004, in terms of the division of powers between the branches of power). The Constitution provided broad guarantees of human rights and freedoms regardless of origin, property status, sex, race, language, religion, political or other beliefs (Sections 10, 11). At the same time, it restricted the activities of state bodies, which complies with the principles of a law-governed state and leaves room for public initiative. Article 15 of the Constitution states that "public life in Ukraine is based on the principles of political, economic and ideological diversity". It guaranteed freedom of political activity, if it is not prohibited by the Constitution and laws of Ukraine. Together with Art. 34 and 35, which guarantee citizens the right to freedom of thought and speech, as well as

¹¹ Закон України «Про всеукраїнський та місцеві референдуми» 1991 р. – [Електронний ресурс]. – Режим доступу : <https://zakon.rada.gov.ua/laws/show/1286-12>

¹² Закон України «Про об'єднання громадян». – [Електронний ресурс]. – Режим доступу : <http://zakon0.rada.gov.ua/laws/show/2460-12>

the freedom of world outlook and religion, this article is the constitutional basis for the formation of a pluralistic society¹³.

At the same time, in the second half of the 1990's issues of institutionalization of civil society have not been adequately reflected in government decisions and actions of the President of Ukraine. "However, under the influence of the current trend of strengthening cooperation with public associations during election campaigns in 1998, the government, in pursuance of the relevant decree of the President of Ukraine, made a decision on the formation of subdivisions on internal affairs within the structure of local executive bodies"¹⁴. One of the tasks of such divisions was the implementation of interaction with political parties and public organizations, in particular, for the development of civil society. This specific electoral technology has contributed to the creation of an institutional framework for government policy to promote civil society development¹⁵.

In the Message of the President of Ukraine Leonid Kuchma to the Verkhovna Rada of Ukraine named "European Choice. Conceptual bases of the strategy of economic and social development of Ukraine for 2002–2011" "only in section V" Institutional transformation", were mentioned the implementation of a policy of deep democratization of economic processes, the establishment of full-fledged institutions of market economics and civil society¹⁶.

In the wake of massive public protests from the early 2000's, the government's attention to the development of civil society has gradually intensified. The ruling elite sought to demonstrate the openness of power to the domestic and international community, trying to disguise the partial collapse of democratic processes through the strengthening of the presidential influence. At the same time, there was a development of public associations. There were authoritative expert-analytical centers that actively lobbied for changes in the legislation in order to get the ability to influence state policy. Thus, by the beginning of XXI, the institutio-

¹³ Конституція України. – [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>

¹⁴ Про утворення підрозділів місцевих органів виконавчої влади з питань внутрішньої політики : постановва Кабінету Міністрів України, 30 жовт. 1998 р. № 1715. – [Електронний ресурс]. – Режим доступу: <http://zakon2.rada.gov.ua/laws/show/1715-98-%D0%BF>.

¹⁵ Андрійчук Т. Урядові рішення як складова розвитку громадянського суспільства. – [Електронний ресурс]. – Режим доступу: http://www.ipiend.gov.ua/uploads/nz/nz_66/andriichuk_uriadovi.pdf

¹⁶ Послання Президента України Леоніда Кучми до Верховної Ради України «Європейський вибір. Концептуальні засади стратегії економічного та соціального розвитку України на 2002-2011 роки». – [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/en/n0001100-02/page>

nalization of civil society was fragmentary, focused on the formation of the institutional foundations of civil society.

The Government's Program "Reforms for Welfare"(2000) mentioned the development of civil society as a priority three times, and mentioned public opinion when making government decisions¹⁷. The next Government Program "Openness, Efficiency, Effectiveness" (2003) focused on ensuring transparency of decision-making, in particular by involving civil society institutions in preparing decisions and analyzing their implementation¹⁸. In 2004, before the presidential election, the Government's Program of Action named "Consistency. Efficiency. Responsibility" specified the task of cooperation with civil society institutes, in particular, regarding the creation of organizational and legal conditions for the participation of the public in the process of formation and implementation of state policy¹⁹. The mechanism of consultation with the public has also been improved. Following a long public discussion, the Cabinet of Ministers of Ukraine (hereinafter – CMU) adopted the Resolution No. 1378 of October 15, 2004, which approved the Procedure for conducting public consultations on issues related to the formation and implementation of state policy and the Model Regulations on the Public Council at the central, local executive bodies power²⁰. For the first time, a legal act obliged the executive authorities to consult with the public on a wide range of socially important issues. The public councils under the executive authorities were created from representatives of civic organizations, trade unions, and mass media. But in practice it seemed more prosaic – everything was done to keep decisions unfulfilled, and to have public councils under control. Thus, in 2005, public councils were transformed into public boards with heads of executive bodies. In 2006, this decision was canceled, and in 2009 the new provision on public councils was approved, and it was not the last one. In 2010, the government approved a new Model Statement on Public Councils that

¹⁷ Про Програму діяльності Кабінету Міністрів України : постанова Кабінету Міністрів України, 23 берез. 2000 р. № 550 [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/550-2000-%D0%BF>

¹⁸ Програма діяльності Кабінету Міністрів України «Відкритість, дієвість, результативність», 17 берез. 2003 р. [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/n0001120-03>

¹⁹ Програма діяльності Кабінету Міністрів України «Послідовність. Ефективність. Відповідальність» від 12 берез. 2004 р. [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/n0002120-04>

²⁰ Деякі питання щодо забезпечення участі громадськості у формуванні та реалізації державної політики : постанова Кабінету Міністрів України, 15 жовт. 2004 р. № 1378 [Електронний ресурс]. – Режим доступу : <http://zakon1.rada.gov.ua/cgi-bin/laws/main.cgi?nreg=1378-2004-%EF>

contained two innovations. Firstly, the procedure for the election of members of public councils during the meeting of all willing representatives of civil society institutions was established. Secondly, the expert functions of the councils have been considerably strengthened, in particular, with regard to the submission of proposals for the preparation of draft legal acts, the conduct of public anti-corruption expertise and the public examination of the activities of executive authorities, etc. According to T.Andreichuk, the combination of the public councils' expert functions and the mechanism for their formation, open to all interested persons, contained a significant contradiction and prevented the proper work of these advisory bodies²¹.

In 2005, the Cabinet of Ministers approved the Procedure for Involvement of Representatives of Civic Organizations to monitor changes in prices and tariffs for goods and services sold to the population and salary levels of employees of the branches of the economy²². In the same year, the Presidential Decree "On the Development of Social Dialogue in Ukraine" came out but lost its power in 2011.

The new stage for the state policy in promoting the development of civil society was the approval of "The Concept for the promotion of civil society by the executive authorities" by the Cabinet of Ministers of Ukraine in 2007. The purpose of this Concept is to create favorable conditions for the further development of civil society and the consolidation of democracy in Ukraine," the Law says²³. It also provided for the improvement of the regulatory framework for the development of civil society, the activities of civil society institutions, and the access of citizens to information; development and implementation of an effective mechanism for establishing communication between executive authorities and civil society institutions. In order to raise the civic culture of society and active civic stance, it was planned to broaden the involvement of citizens in the formation and implementation of state policy. Particular attention was paid to the development of the volunteer movement, philanthropy and patronage. By

²¹ Андрійчук Т. Урядові рішення як складова розвитку громадянського суспільства. – [Електронний ресурс]. – Режим доступу : http://www.ipiend.gov.ua/uploads/nz/nz_66/andriichuk_uriadovi.pdf.

²² Порядок залучення представників громадських організацій до спостережень за зміною цін і тарифів на товари та послуги, що реалізуються населенню, і рівнів заробітної плати працівників галузей економіки Постанова КМУ від 15 січня 2005 р. N 39. – [Електронний ресурс]. – Режим доступу : <http://zakon3.rada.gov.ua/laws/show/39-2005-%D0%BF>

²³ Про схвалення Концепції сприяння органами виконавчої влади розвитку громадянського суспільства : розпорядження Кабінету Міністрів України, 21 лист. 2007 р. № 1035. – [Електронний ресурс]. – Режим доступу : <http://zakon1.rada.gov.ua/laws/show/1035-2007-%D1%80>.

adopting the Concept, the government sought to demonstrate openness to dialogue with civil society institutions, taking into account the experience of democratic construction of European countries such as Great Britain, Denmark, Croatia, Czech Republic, Estonia, Hungary, etc. It was even an attempt to introduce presidential hearings in addition to parliamentary and public ones, but it only happened once.

Scientists and political scientists point out that during 2008–2011 the main directions of the Concept were not implemented in practice. The development of draft laws on important issues of the functioning of civil society institutions ("On Public Organizations", "On Charity and Charitable Organizations", "On the Volunteer Movement") was constantly postponed; therefore they were submitted to parliament by the deputies. Only a few draft laws could be considered as the government's contribution to the improvement of the legislation, in particular "On Amendments to Some Laws of Ukraine on Public Participation in the Formation and Implementation of State Policy, Resolution of Local Issues" (2009), "On Administrative Services" (2011). In 2008, the Presidential Decree "Issues of the National Council on the Interaction of State Authorities and Local Self-Government Bodies" came into force, but lost its power in 2010.

The definition of the procedure for promoting the public examination of the activities of the executive authorities in 2008²⁴ and the establishment of a unified procedure by the executive authorities to contest programs (projects, events) of civil society institutions to provide them with budget support is one of the achievements in the policy of supporting the development of civil society²⁵.

Adoption of the Resolution of the Cabinet of Ministers of Ukraine of November 3, 2010, No. 996 "On Ensuring Public Participation in the Formation and Implementation of State Policies" was aimed to help all interested civil society institutions to participate in the elaboration and implementation of state policy through the creation of public councils under executive power. Public councils received the right: to give proposals to regulatory and legal acts and the content of the work of

²⁴ Постанова від 5 листопада 2008 р. N 976 Київ. Про затвердження Порядку сприяння проведенню громадської експертизи діяльності органів виконавчої влади. Із змінами, внесеними згідно з Постановами КМ N 1103 (1103-2009-п) від 14.10.2009 N 234. – [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/976-2008-%D0%BF>

²⁵ Про затвердження Порядку проведення конкурсу з визначення програм (проектів, заходів), розроблених інститутами громадянського суспільства, для виконання (реалізації) яких надається фінансова підтримка : постанова Кабінету Міністрів України, 12 жовт. 2011 р. № 1049. – [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/1049-2011-%D0%BF>

officials; to conduct public anti-corruption expertise of normative legal acts and to demand that officials carry out anti-corruption legislation; to conduct a public examination of the activity of the authority; to exercise public control, taking into account the authorities' suggestions and comments to the public; help the authority work more efficiently in the interests of citizens. It should be noted that the first experience of the formation and operation of public councils showed that the institutes of civil society themselves were unprepared for self-organization. They work not systematically, not familiar enough with modern methods of policy analysis, monitoring of social processes, public control, anti-corruption expertise, etc²⁶. At the same time, the level of mutual trust between the authorities, business and civil society institutions remained low, which led to alienation instead of solidary responsibility for the state of social development.

Thus, the beginning of the 21st century was marked by the search for effective communications between the authorities and the community and their introduction into the legal field of the state. Adoption of the Verkhovna Rada of Ukraine on January 13, 2011, the Law of Ukraine "On Access to Public Information" was the next step in the institutional development of civil society. The law has regulated the access of individuals and legal entities to information. Article 1 clearly defined and consolidated the notion of "public information", according to which public information is the information that was received or documented by any means and on any medium that was received or created during the execution by the subjects of the authorities of their duties, provided by the current legislation, or which is in the possession of the subjects of power authorities, other administrators of public information, determined by this Law. The law also identified ways to access public information through the systematic and prompt disclosure of information on official websites, through the media or in any other way, providing information on information requests. The consequence of the adoption of the Law was a gradual increase in the openness of the authorities, a significant increase in the volume of open access information, and the obligation of key information managers to publish and provide accurate and complete information on their activities and decisions made, systematically keep

²⁶ Інформаційно-комунікаційні особливості взаємодії органів місцевого самоврядування з громадою: регіональний аспект. Аналітична записка. – [Електронний ресурс]. – Режим доступу : – <http://www.niss.gov.ua/articles/978/>

records of documents and requests for information that are located in their possession²⁷.

The following Strategy of the state policy of promoting the development of civil society in Ukraine was approved by the Decree of the President of Ukraine dated March 24, 2012, No. 212/2012. It was aimed at introducing public control over the activities of the authorities, ensuring independent activity of civil society institutions, strengthening their influence on making publicly important decisions, creating conditions for ensuring wide representation of citizens' interests in state authorities and local self-government bodies, holding regular consultations with the public from important issues of the life of society and the state²⁸.

In 2011–2012, in pursuance of the provisions of a number of laws of Ukraine, government decisions were taken on the procedures for public discussion of specific issues of state and local policy, in particular, city planning documents, decisions that may affect the state of the environment, issues of assignment to legal entities, property rights assigned to them, names (pseudonyms) of individuals, jubilee and holiday dates, names and dates of historical events. However, the said acts do not have a single approach to the procedure for conducting the discussion and they are weakly correlated with the procedure for conducting public consultations, approved by the Cabinet of Ministers on November 3, 2010, No. 996, which made it impossible to conduct them. In 2012–2013, the task of amending the resolutions on issues of holding public consultations and facilitating the public examination of the activities of executive authorities, as foreseen by the Action Plan for the implementation of the "Open Government Partnership" Initiative, was not fulfilled²⁹.

In 2013, the Law of Ukraine "On Public Associations" was approved in a new version³⁰. The new law improved the legislation in this area, making the implementation of the constitutional right to freedom of association more accessible and orderly and consolidating a fundamentally new procedure for the registration of public associations, which is

²⁷ Закон України «Про доступ до публічної інформації». – [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/2939-17>

²⁸ Указ Президента України від 24 березня 2012 року № 212/2012 Про Стратегію державної політики сприяння розвитку громадянського суспільства в Україні та першочергові заходи щодо її реалізації. – [Електронний ресурс]. – Режим доступу : <http://zakon0.rada.gov.ua/laws/show/212/2012>

²⁹ Інформаційно-комунікаційні особливості взаємодії органів місцевого самоврядування з громадою: регіональний аспект. Аналітична записка. – [Електронний ресурс]. – Режим доступу : <http://www.niss.gov.ua/articles/978/>

³⁰ Закон України «Про громадські об'єднання» Відомості Верховної Ради України (ВВР), 2013, № 1, ст.1. – [Електронний ресурс]. – Режим доступу : <http://zakon3.rada.gov.ua/laws/show/4572-17>

distinguished by its democratic nature. "The new law has shifted the ice in the area of post-soviet legal regulation of the activities of citizens' associations and, despite some gaps, substantially improved the legislation in this area, making the implementation of the constitutional right to freedom of association more accessible, orderly and multifaceted"³¹.

Despite the large number of normative documents that should have contributed to the development of civil society in Ukraine, the imperfections and contradictions of the current legislation created artificial barriers for the development of civil society institutions. The mechanisms of public participation in the formation and implementation of public policy are not implemented properly and are not implemented properly, due to the lack of knowledge, indifference, despondency of citizens, and, in part, not the desire of officials. Bodies of executive power and local self-government, in turn, instead of establishing an effective dialogue with society, create its visibility. The activities of civil society institutions themselves were characterized by insufficient level of their institutional, financial and personnel capacity. Scientists and political scientists have stated the low level of socially significant voluntary activity of Ukrainian citizens by 2013.

At a critical moment in 2013, when there was a real danger of curtailing democratic processes, and in 2014, when the Russian Federation attacked Ukraine, all of us suddenly saw that we have active citizens who are gathering together in civil society.

In the annual analysis of democratic processes in Central and Eastern Europe and the Eurasian Nations in Transit 2016, held by Freedom House, Ukraine ranked 18th out of 29 new democracies. The rating is based on seven indicators: the electoral process, the development of civil society, media freedom, the level of democracy of the central government, the level of democracy of local governance, the independence and functioning of the justice system, and the level of corruption. According to these indicators, Ukraine's biggest problems are corruption and justice (score 6 out of 7 points); the best situation is with the development of civil society (2.25 points out of 7, which corresponds to the European level). It is civil society that plays the most prominent role in promoting democratic reforms in Ukraine³² and has become an imperative for democratic development.

³¹Оновлена свобода об'єднань//Закон і бізнес. – [Електронний ресурс]. – Режим доступу : http://zib.com.ua/ua/9851-noviy_zakon_pro_gromadski_obednannya_n_4572-vi_analiz_polozh.html

³² Nations in Transit 2016 [Електронний ресурс] / Freedom House. – Режим доступу : <https://freedomhouse.org/report/nations-transit/nations-transit-2016>

Among the commitments made within the framework of the implementation of the "Open Government Partnership" Initiative in Ukraine during the 2014–2015 period there are certain changes. It is worth noting the introduction of the mechanism of electronic petitions, the creation of a pilot version of the Single State Administration Services Portal, the provision of access to information in the form of open data, the launch of the web portal of income declarations, property and expenses of civil servants. According to the World Justice Project Index 2015, Ukraine ranked 43th among 102 countries (while in the Eastern European and Central Asian countries, Ukraine ranked 4th, yielding to Georgia, Bosnia and Herzegovina and Macedonia). The issue of institutionalization of civic initiatives and various forms of social self-organization does not lose its relevance. Thus, in July 2016, a government resolution was adopted "On Approval of the Procedure for maintaining the Register of Non-Profit Institutions and Organizations, Inclusion of Unprofitable Enterprises, Institutions and Organizations in the Register and Exceptions from the Register", which led to the re-registration of the statutes of all non-profit organizations. On October 6, 2016, the Laws of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Improvement of State Registration of Rights to Real Estate and Protection of Ownership Rights" and "On Amendments to the Tax Code" were sent to the creation of favorable conditions for the functioning of CSOs. Ukraine on clarification of certain provisions on the taxation of non-profit organizations», thus solving a number of problems regarding the preservation of non-profit status by religious organizations. In addition, positive legal changes were made to legal entities and individuals who provide charitable assistance. Thus, in October 2016, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Amendments to Some Laws of Ukraine Concerning the Creation of Favorable Conditions for the Implementation of Charitable Telecommunication Communications", which abolishes the charge for compulsory state pension insurance for the provision of charity text messages.

Thus, in February 2017, the launch of the services of the Ministry of Justice in the service "The Uniform State Administration of Administrative Services" was presented. In the same month, the Ministry and the International Renaissance Foundation jointly launched the On-Line Justice House. However, this option is still open only for metropolitan users.

According to media reports, the authorities will promise to be fully registered by public organizations through "online justice houses" by the end of 2017. Enhancing the interaction of state authorities and CSOs in countering the informational and propaganda component of the RF hybrid aggression against Ukraine promotes the enactment of the Decree of the President of Ukraine from February 25, 2017 Decision of the National Security and Defense Council of Ukraine dated December 29, 2016 "On the Doctrine of Information Security of Ukraine". The Action Plan for the Implementation of the "Open Government" Partnership Initiative in 2018–2020, which in particular provides for the creation of an online platform for interaction between executive authorities and civil society institutes³³. The further institutionalization of civil society, in particular within the Open Government Initiative, is due to the emergence of e-democracy, the essence of which is the use of digital technologies to strengthen democratic processes in the conditions of the existence of representative democracy. The purpose of e-democracy is to create the foundation for human participation and citizen in making state decisions, strengthening influence on the formation and implementation of state policy, solving local issues, strengthening prose the e-democracy is an instrument for protecting a person and a citizen of their interests and defining the forms of cooperation with the state through e-government technologies. The effectiveness of e-democracy depends on the willingness of citizens, civil society institutions to participate in state governance, in state-building processes, as well as the readiness of public authorities to open up and reform. Innovative is also a flexible democracy, which creates a new form of democracy in which various "hard" barriers are constantly changing. Decision making moves from the vertical system to the horizontal. Every citizen can join the decision-making process using Internet technologies, if desired.

Already in the early 90's of the last century, the young Ukrainian state focused its efforts on the development of domestic volunteering within the framework of the newly established state network of centers for social services for young people. The experience of the functioning of the first volunteer groups has demonstrated the social demand of such activities because of its social significance, urgency, ability to effectively solve

³³ Про затвердження плану дій із впровадження Ініціативи "Партнерство "Відкритий Уряд" у 2018–2020 р. – [Електронний ресурс]. – Режим доступу : <https://www.kmu.gov.ua/ua/npas/pro-zatverdzhennya-planu-dij-iz-vprovadzhennya-iniciativi-partnerstvo-vidkritij-uryad-u-20182020-rokah>

human, social and environmental problems, unlimited means of proceeding, etc. This led to the emergence of non-governmental Ukrainian organizations, providing a gradual shift of the center of gravity of domestic volunteering towards civil society. Volunteering during the treason of the President of Ukraine and Russian aggression was the basis for the formation of a modern army and a new administrative apparatus. Recent sociological surveys show a significant strengthening of the position of volunteering in Ukrainian society, which manifests itself primarily at the highest level of Ukrainians' trust in volunteer organizations among all public institutions³⁴.

For modern Ukrainian society, a reappraisal of all socially important moral principles and values is required, which requires a corresponding scientific analysis of spiritual processes that are different from those prevailing in the country under the pressure of Soviet ideology. This is a reappraisal of the structure of national consciousness inherent in the Ukrainian people. After all, its formation took place in the conditions of a rather long absence of a national state. However, there are certain grounds for the unity of the value conservatism of Ukrainians with modernization aspirations, since the integrative model of the value coordinates of Ukrainians proves the authenticity of their western orientation (freedom, individualism, tolerance). The problem is the gradual introduction of transitional steps from the form of community that emerged from communist times to the modern model of solidarity of Ukrainians.

Formation of civil society in any state is impossible without functioning in its system of education of effective areas of civic education, education of democratic values in individuals, realization of their knowledge of human rights. Against the background of social transformations in the education system, an important role is played by the formation of a citizen, his civic culture, education in the legal, social and political fields. The institutionalization process is not only the formation of a legislative field and the creation of institutional structures, but also new rules and conditions of life.

According to O.Petroe, the civic effectiveness of public administration is decisively determined by the state and level of development of social dialogue. In a market economy, social dialogue serves as a blend of efforts for the development of social relations and an efficient and competitive

³⁴ Довіра соціальним інститутам, грудень 2018 р. – [Електронний ресурс]. – Режим доступу : <https://www.kiis.com.ua/?lang=ukr&cat=reports&id=817&page=2>

economy. Analyzing the existing domestic system of social dialogue, it should be noted that during the years of independence, social dialogue has gained significant political recognition, official legal and organizational design. But Ukraine is significantly inferior to the EU countries in terms of social standards, human development and living standards. Also, Ukraine lags behind the level of competitiveness of the national economy, which, in aggregate, puts forward the task of improving the domestic system of social dialogue.

The institutionalization of civil society has a significant influence on the formation of a new system of factors of progressive social development, the emergence of new actors – leaders whose influence will not be system (group, clans), financial or administrative resources, but knowledge, new horizontal and vertical communications, skills to identify and achieve social goals, responding to public expectations and strategic goals of the development of a modern state.

CONCLUSIONS

At the present stage of development of society and the state, we can observe a crisis of a paternalistic model of state-public relations with a clear tendency of strengthening of public influence in the system of public administration. In fact, it referred to the institutionalization of a new level of interactive relationships between institutions and subjects of the public sphere – government and civil society.

An important task for the establishment and development of a young Ukrainian state as a democratic is to revive the public as an institution that legitimizes and controls the government. It is necessary to revive the distinction and balance between the state and civil society, to protect civil society, to create conditions for its development. The pre-institutionalization of civil society has a certain type of political and managerial culture.

The historical tradition of state formation, which has also been reflected in the Ukrainian language, indicates the culture of civil society in Ukraine. The will and aspiration of Ukrainians to an independent democratic legal state, manifested in the People's Movement of 1980–1990 and the Revolution on Granite became a powerful imperative for the formation of civil society. They gave impetus to the institutionalization of civil society in modern Ukraine.

Institutionalization is a process of streamlining and formalizing social ties and relationships. In practice, this involves the creation of a social institution as a stable, normatively-secured form of social interaction of people. The effectiveness of civil society organizations depends on how the state and society can create the conditions for their development. The positive dynamics of the increase in the number of NGOs, the expansion of spheres and their activities, and the capacity for organizational development are important indicators of the development of civil society in Ukraine. The state legalized not only the activities of various public associations but also created a legal framework for their participation in the formation and implementation of public policy. Although the problem of institutionalization of socio-political associations in the process of forming state policy remains an important area of research.

The process of institutionalization of civil society should result in the formation of new institutionalized practices, rules, norms of behavior and forms of communicative interaction between civil society, state, and business. The activities of civic organizations create a powerful third sector that supports social stability. A strong and healthy democracy is a long-term result of this activity.

In fact, a new environment for developing collective opinion in the public sphere is being formed, the institutionalization of new forms of relations between state and non-state institutions, and the legal and organizational mechanisms for such communications are being developed.

SUMMARY

The article examines the process of institutionalization of civil society in Ukraine. The prerequisites for the formation of civil society are revealed. It is shown that active civic participation characterizes Ukrainian state-building from the early Middle Ages. The following imperatives of the formation of civil society as political participation, language, cultural traditions are pointed out. The process of forming a legal field for the establishment and development of civil society by the Ukrainian state is revealed. The institutionalization of civil society contributes to the provision of freedom of speech, and the election of power, the development of information technology, and civic education. To become an active citizen, it is necessary for a person to acquire knowledge based on the system of political values and ideas in which a person can believe and which are orientations in the political environment and can allow a person to adapt and influence the formation and implementation of public policy.

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