

**REFORM OF DECENTRALIZATION OF POWER IN UKRAINE  
UNDER CONDITIONS OF WAR: LEGAL REGULATION,  
MANAGEMENT FEATURES AND DIRECTIONS FOR  
IMPROVEMENT**

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**Abstrak:** Tujuan artikel ini adalah untuk mengungkap reformasi desentralisasi kekuasaan di Ukraina dalam kondisi perang. Konsep komunitas teritorial Ukraina berhasil mewujudkan tradisi Eropa kuno tentang pemerintahan mandiri lokal Ukraina dan standar modern Uni Eropa. Artikel ini merupakan penelitian kualitatif dengan pendekatan historis dan komparatif. Hasil penelitian menyimpulkan bahwa interaksi produktif antara warga negara, negara, dan organisasi internasional berkontribusi terhadap pembentukan komunitas teritorial Ukraina. Pajak penghasilan orang pribadi terbukti menjadi salah satu sumber utama pengisian anggaran masyarakat. Selama 9 bulan tahun 2022 anggaran lokal wilayah Dnipropetrovsk Ukraina menerima 16.364.124 hryvnia Ukraina (UAH) sebagai pajak penghasilan pribadi, yaitu 34% lebih banyak dibandingkan periode yang sama pada tahun 2021. Stabilisasi dan pemulihan komunitas teritorial di Ukraina memerlukan pengenalan sistem perencanaan strategis tiga tingkat baru yang efektif dan transparan: strategi negara — strategi regional — strategi komunitas. Untuk pemulihan dan stimulasi pembangunan daerah, penyusunan strategi harus memuat definisi empat jenis wilayah fungsional berikut: wilayah pemulihan, kutub pertumbuhan ekonomi, wilayah dengan kondisi khusus untuk pembangunan, wilayah pembangunan berkelanjutan.

**Kata kunci:** Reformasi, Desentralisasi kekuasaan, Komunitas teritorial, Badan pemerintahan daerah, Dasar hukum, Perang.

**Abstract:** The purpose of the article is to reveal the reform of the decentralization of power in Ukraine under conditions of war. In the concept of the territorial community of Ukraine, ancient European traditions of Ukrainian local self-government and modern standards of the European Union have been successfully embodied. This article is the qualitative research with a historical and comparative approach. The results of the study concluded that The productive interaction of citizens, the state, and international organizations contributed to formation of Ukrainian territorial communities. It has been proven that the personal income tax is one of the main sources of filling community budgets. For 9 months of 2022 local budgets of the Dnipropetrovsk region of Ukraine received 16,364,124 Ukrainian hryvnias (UAH) as personal income tax, which is 34% more than for the same period in 2021. Stabilization and restoration of territorial communities in Ukraine require the introduction of a new three-level effective and transparent system of strategic planning: state strategy — regional strategies — community strategies. For restoration and stimulation of regional development strategizing should contain definition of the following four functional types of territories: territories of recovery, poles of economic growth, territories with special conditions for development, territories of sustainable development.

**Key words:** Reform, Decentralization of power, Territorial communities, Local self-government bodies, Legal basis, War.



## INTRODUCTION

The full-scale invasion of the Russian Federation has become the biggest challenge for Ukraine since the day of restoration of its independence. Among other things, the war has exacerbated the problems concerning achieving stability of regions and communities.

The course of hostilities has demonstrated the strength and effectiveness of horizontal ties in Ukrainian society. When regional and district military administrations (MA) and regional councils are focused on solving the issues of armed struggle with the aggressor, a significant part of the burden of war falls on territorial communities. In addition to accumulating and delivering volunteer aid to the Armed Forces of Ukraine and the Territorial Defense Forces, receiving and resettling forced migrants, local councils are focused on business support and they ensure functioning of the local economy and livelihood of the population.

Local self-government in its current form anywhere in the world has not yet faced the challenges faced by the territorial communities of Ukraine as a result of the large-scale invasion of Russia. It has happened that Ukrainian communities not only pass their own crash test in absolutely harsh and dangerous conditions, but also implement in practice the principles and standards of the main international documents in the sphere of local self-government - which are especially important in war conditions, and which: prove the validity of the idea of subsidiarity enshrined in the European Charter of Local Self-Government (Strasbourg, October 15, 1985)<sup>1</sup>; confirm the expediency of expanding the concept of local self-government in the edition of the World Declaration of Local Self-Government (Rio de Janeiro, September 26, 1985)<sup>2</sup>, namely as “the right and duty of local authorities to regulate and conduct state affairs under their personal responsibility and in the interests local population”; “boldly and resolutely take responsibility for creating (directly or indirectly) economic growth” locally, according to the European Urban Charter (1992).<sup>3</sup>

The decentralization reform in Ukraine is one of the most successful and consistent in the last eight years. This has been guaranteed by the long-standing European traditions of local self-government, the consistency of state leadership, and the systematic methodological and institutional assistance rendered by international organizations.<sup>4</sup>

International partners recognize the reform of the territorial organization of power in Ukraine to be successful. That is why the main tasks of the Government for the period 2022-2025 have been aimed at ensuring sustainable development of regions and territorial communities. At the same time, these plans have undergone a forced correction due to the Russian attack. Decisions of the central government, caused by the need to provide a quick response to wartime conditions, suspended the processes of decentralization in certain areas.

Results of the first stage of the decentralization reform were summarized on

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<sup>1</sup> Council of Europe, October 2013. European Charter of Local Self-Government. <https://rm.coe.int/european-charter-for-local-self-government-english-version-pdf-a6-59-p/16807198a3>

<sup>2</sup> UN. Economic and Social Council (1987, 1st sess.: New York). Declaration on Local Self-Government. <https://digitallibrary.un.org/record/156504?ln=ru>

<sup>3</sup> Council of Europe, 17-19 March 1992, Strasbourg. European Urban Charter <https://rm.coe.int/168071923d>

<sup>4</sup> Hryhorash, Olha, Maxim Korneyev, Yevgeny Leheza, Liliya Zolotukhina, and Tetiana Hryhorash. ‘The Development of Small Business as a Source of Formation of Local Budget Revenues in Ukraine’. *Investment Management and Financial Innovations* 15, no. 1 (2018): 132–40. [https://doi.org/10.21511/imfi.15\(1\).2018.12](https://doi.org/10.21511/imfi.15(1).2018.12).

February 21, 2022 at the National Forum “Safe and Capable communities of the Future” under the patronage of the President of Ukraine, where the following issues were discussed: implementation of the decision of the National Security and Defense Council of Ukraine dated April 15, 2021 “On Measures of State Regional Policy to Support the Decentralization of Power” in the context of the reform of power decentralization and strengthening the capacity of territorial communities; modern tools and effective solutions for community development; security in communities, building a system of national resistance. The forum was organized by the National Security and Defense Council of Ukraine and the Association of Small Cities of Ukraine.<sup>5</sup>

Against the background of unprecedented threats to world democracy, created by Russia by means of its attack, territorial communities in Ukraine prove that expanding the competence of local self-government by delegating part of state powers to its bodies is a justified and reasonable step. The wartime management system ensured stability at the regional level and the local level.<sup>6</sup>

On free territories, territorial communities became the basic link in ensuring stability of the rear as well as social stability. The stability of territorial communities that were under temporary occupation after February 24, 2022 made it possible to speed up the process of stabilization after de-occupation.

The purpose of the article is to reveal the reform of the decentralization of power in Ukraine under conditions of war.

To solve the set goal, the author set the following tasks:

1. Reveal the peculiarities of the decentralization of the Ukrainian government in the conditions of war;
2. Single out the legal regulation of the decentralization of Ukrainian power;
3. Investigate the peculiarities of the interaction of local self-government bodies with military administrations in Ukraine.

## METHOD

The research is based on the works of foreign and Ukrainian researchers regarding legal regulation of decentralization of Ukrainian government in war conditions.

With the help of the epistemological method, the legal regulation of decentralization of Ukrainian government in war conditions was clarified, etc., thanks to the logical-semantic method, the conceptual apparatus was deepened, the legal regulation of decentralization of Ukrainian government in war conditions was determined, etc. Thanks to the existing methods of law, we managed to analyze the essence of legal regulation of decentralization of Ukrainian government in war conditions.

The specifics of the research subject, as well as its purpose and tasks determined the use of general scientific and special methods of scientific cognition.

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<sup>5</sup> Leheza, Yevhen, Volodymyr Shablysty, Irina V. Aristova, Ivan O. Kravchenko, and Tatiana Korniakova. ‘Foreign Experience in Legal Regulation of Combating Crime in the Sphere of Trafficking of Narcotic Drugs, Psychotropic Substances, Their Analogues and Precursors: Administrative and Criminal Aspect’. *Journal of Drug and Alcohol Research* 12, no. 4 (2023). <https://doi.org/10.4303/JDAR/236240>. A Johan, “Justifi Kasi Hukum Islam Atas Pajak Dalam Perspektif Hukum Dan Ekonomika,” *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan*, no. Query date: 2024-04-12 14:41:16 (2018), <https://core.ac.uk/download/pdf/304835649.pdf>.

<sup>6</sup> Zadyraka, Nataliia, Yevhen Leheza, Mykola Bykovskiy, Yevhenii Zheliezniak, and Yulia Leheza. ‘Correlation of Legal Concepts of Administrative Procedure and Administrative Liability in the Sphere of Urban Planning’. *Jurnal Cita Hukum* 11, no. 1 (2023): 33–44. <https://doi.org/10.15408/jch.v11i1.31784>. D Alfiander, “Disparity in the Considerations of Judges in Deciding Divorce Disputes in Religious Courts and District Courts,” *JURIS (Jurnal Ilmiah Syariah)*, no. Query date: 2024-04-12 14:45:07 (2022), <https://ojs.iainbatungkar.ac.id/ojs/index.php/Juris/article/view/5716>.

The hermeneutic method was used to establish content of decentralization of Ukrainian government in war conditions and the legal doctrine. This method of analysis was used to interpret provisions of normative legal acts, which establish the order and features of the status of decentralization of Ukrainian government in war conditions. With the help of the method of systematic analysis, court decisions issued in lawsuits regarding protection of decentralization of Ukrainian government in war conditions and, in particular, regarding the specifics of the status of decentralization of Ukrainian government in war conditions. The dogmatic method made it possible to analyze scientific studies devoted to general problems of decentralization of Ukrainian government in war conditions. The method of generalization helped to formulate conclusions that summarized the conducted research.

Thus, modern domestic scientific research is mostly based on such a general scientific method as *dialectical one*. In general, dialectics as a science studies the most general laws of the development of nature, society and thinking. The dialectical method is such a general scientific method of cognition that needs to take into account relationship and constant development of phenomena in the process of cognition of reality. Dialectics as a method of learning information about nature, society and thinking, considered in unity with logic and the theory of knowledge, is a fundamental scientific principle of studying multifaceted and contradictory reality in all its manifestations.<sup>7</sup>

This method “was developed over many centuries by scientists of various philosophical and political directions” and consists in such an approach to studying phenomena of social existence, which is based on the general regular connections of development of society, the state and nature.<sup>8</sup>

Therefore, according to the dialectical method, all phenomena are interconnected and dynamic. The basis of their development (dynamics) includes such laws of dialectics as transition from quantity to quality, struggle and unity of opposites, etc.

As for the topic of the research, thanks to the dialectical method, the current state of decentralization of Ukrainian government in war conditions and understanding of the essence of this legal phenomenon was established, taking into account their dynamics, development during historical time and taking into account their interdependence with other phenomena of social and state life, interrelation of one relationship with other ones.

Application of the *axiological method* was aimed at clarifying and determining the public danger of violations in the sphere of decentralization of Ukrainian government in war conditions as well as at the public utility of state activity to overcome these violations.

The *hermeneutic method* made it possible to reveal the dependence of interpretation of normative legal acts or provisions set forth in scientific texts on the subject of interpretation, to reveal the content of legal norms and scientific knowledge, based on the peculiarities of legal normative legal and scientific language.

Humanization of domestic legislation and determination of decentralization of Ukrainian government in war conditions, his/her rights and freedoms in relation to interests of the state determines the need to use a *humanistic method* in order to consider of decentralization of Ukrainian government in war conditions. As a result, it is concluded that *the state and laws* have a human nature, that is, they are created, act and are intended to provide for the needs of decentralization of Ukrainian government in war conditions.

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<sup>7</sup> Sheyko V. “Organization and Methodology of Scientific Research Activity: a Textbook”. 2nd edition. (2002). Kyiv: Znannia-Press, Ukraine.

<sup>8</sup> Maksimov S.I. “Problems of the Methodology of Modern Legal Science”, *Bulletin of the Academy of Legal Sciences of Ukraine*. Vol. 1. (1997). 146-150

The comparative-legal (comparative-historical, comparative-structural, comparative-functional, comparative-axiological, comparative-typological, comparative-linguistic, comparative-semiotic, comparative-legal, comparative-philosophical, comparative-political, etc.) for studying general, special and unique features between interpretation of the essence and content of the status of decentralization of Ukrainian government in war conditions, as well as their protection in domestic legal and scientific doctrine in relation to the foreign one, etc..

So, outline of the methodological foundations of researching legal bases of personal data protection allowed us to reach several conclusions.

Firstly, both the breadth of cognitive opportunities for extracting new knowledge about the subject of study and the adequacy of the obtained results depend on the methodological toolkit.

Secondly, the subject of research lies in the plane of several sciences, which requires the use of a wide range of general, philosophical, general scientific, partially scientific and special research methods.

Thirdly, only the complex use of methodological approaches and research methods will contribute to an objective, comprehensive, complete disclosure of the subject of study of this scientific work.

Thus, the complexity and multifacetedness of the research subject, the goal and task set in this dissertation, require definition of worldview, philosophical, scientific and theoretical foundations, as well as a comprehensive use of a wide range of general, philosophical, general scientific, partially scientific and special research methods. It is this approach that will contribute to a full, comprehensive, objective disclosure of decentralization of Ukrainian government in war conditions.

Changing the mode of functioning of regional and local authorities through the formation of military administrations ensuring security on the territory, became an important factor in ensuring livelihood of communities. Local self-government bodies continue exercising their powers aimed at resolving issues of local importance in the territories of communities, taking into account the specifics of functioning under martial law.

In contrast to the situation of 2014-2021, when the war took the form of a local conflict, the full-scale invasion on February 24, 2022 created threats to the entire territory of the state. The legal framework for functioning of the territorial communities in war conditions was immediately applied - it has fully ensured stability of management at the regional level and the local level. At the same time, its imperfection began to manifest almost from the first days of the war. There was an urgent need for additional legislative regulation of local self-government activities under martial law.<sup>9</sup>

A series of normative amendments to the Law of Ukraine “On the Legal Regime of Martial Law” dated May 12, 2015 (from March 15 to May 12, 7 relevant draft laws were adopted) removed a number of acute problems of the initial period of aggression. Based on the experience of half a year of the active phase of the war, draft law No. 8056 was submitted to the Verkhovna Rada of Ukraine for consideration, which, after its adoption, is capable of significantly improving the interaction of authorities and self-government

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<sup>9</sup> Voloshanivska, Tetiana, Inna Pozihun, Serhii Losych, Olha Merdova and Yevhen Leheza. ‘Administrative and Criminal Law Aspects of Preventing Offenses Committed by Minors in the Sphere of Illegal Circulation of Narcotic Drugs, Psychotropic Substances and Precursors’. *Journal of Drug and Alcohol Research*, 12(10) (2023). <https://doi.org/10.4303/JDAR/236269> TIA Al-Hammami, “The Impact of the Companions’ Approach on Ensuring the Quality of Thought among Muslims: Musannaf Ibn Abi Shaybah as a Model,” *Samarah: Jurnal Hukum Keluarga Dan ...*, no. Query date: 2024-04-08 11:35:48 (2023), <https://jurnal.ar-raniry.ac.id/index.php/samarah/article/view/15223>.

bodies.<sup>10</sup>

In the conditions of martial law, the powers of local self-government bodies, in addition to the Law “On Local Self-Government”, are regulated by the provisions of the Law of Ukraine dated May 12, 2015. No. 389-VIII “On the Legal Regime of Martial Law”.

<sup>11</sup> This law regulates, in particular, creation of military administrations. Local self-government bodies act together with military administrations formed by the President of Ukraine under martial law to ensure implementation of the Constitution and laws of Ukraine. Local self-government bodies and military administrations ensure, together with the military command, introduction and implementation of measures of the legal regime of martial law, defense, public order and security, protection of rights, freedoms and legitimate interests of citizens.

Functions of military administrations are similar to the functions of military-civilian administrations created in some regions, districts and communities in accordance with the Law of February 3, 2015. No 141-USH “On Military-Civilian Administrations”.<sup>12</sup> However, there are significant differences that had not been worked out until February 24, 2022 due to the lack of practice of introducing martial law throughout the country.

Military administrations are formed in accordance with Presidential Decrees for the period of martial law and 30 days after its termination or cancellation. Military administrations can be of three types: regional ones, district ones and those of inhabited localities.

There are three grounds for formation of regional and district military administrations: 1) in case of failure to convene a session of the relevant district or regional council within the time limits established by the Law of Ukraine "On Local Self-Government in Ukraine"<sup>13</sup>; 2) in case of termination of their powers in accordance with the law; 3) to exercise leadership in the sphere of providing defense, public safety and order.

In connection with the armed aggression of the Russian Federation, regional and district military administrations in Ukraine were established by Presidential Decree No. 68/2022 of February 24, 2022, precisely on the third basis.<sup>14</sup> The respective regional and district state administrations acquired the status of military administrations, and their heads became the heads of these military administrations.

The grounds for creating a MA of an inhabited locality are similar, but somewhat narrowed: failure of local councils and/or their executive bodies, and/or village, settlement, city heads to exercise the powers assigned to them by the Constitution and laws of Ukraine; in other cases, provided for by this Law; military administrations in some settlements were established later, by separate Presidential Decrees.

## RESULTS AND DISCUSSIONS

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<sup>10</sup> Law of Ukraine “On the Legal Regime of Martial Law”, Verkhovna Rada Information, May 12, 2015 No. 389-VIII. <https://zakon.rada.gov.ua/laws/show/389-19#Text>

<sup>11</sup> Law of Ukraine “On Military-Civilian Administrations”, *Bulletin of the Verkhovna Rada*. February 3, 2015. No. 141-VIII. 2015, No. 13, Article 87. <https://zakon.rada.gov.ua/laws/show/141-19#Text>

<sup>12</sup> Law of Ukraine. On Military-Civilian Administrations. *Bulletin of the Verkhovna Rada*. February 3, 2015. No. 141-VIII. 2015, No. 13, Article 87. <https://zakon.rada.gov.ua/laws/show/141-19#Text>

<sup>13</sup> Law of Ukraine. On Local Self-Government in Ukraine of May 21, 1997 No. 280/97-VR. Information of the Verkhovna Rada of Ukraine (VVR), 1997, No. 24, Article 170 <https://zakon.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80#Text>

<sup>14</sup> On the Formation of Military Administrations. Decree of the President of Ukraine No. 68/2022. <https://www.president.gov.ua/documents/682022-41405>



The basis of their creation is decisive for the structure and staff list of military administrations, approved by the head of the military administration depending on actual needs. In cases of incapacity of the relevant local self-government bodies, the newly created military administration shall take over a part of its functions. For execution of these functions an adequate staff must be provided in the structure of the military administration. Provided the functionality of the relevant local self-government bodies is preserved, it has the opportunity to continue its work in cooperation with the military administration. The structure of the military administration in this case will be different, since there is no need to replace part of functions of local self-government bodies.

This is the key difference between military administrations and military-civilian administrations. The latter are from the very beginning created precisely to fulfill the powers of local executive bodies. Military administrations are not legal entities under public law. Financing of the activities performed by military administrations in terms of the exercising powers of local self-government bodies is carried out at the expense of the relevant local budgets, and performance of other functions is carried out at the expense of the state budget of Ukraine.<sup>15</sup>

Direction, coordination and control over the activities performed by district military administrations in matters of defense, public safety and order, protection of critical infrastructure, implementation of measures of the legal regime of martial law are carried out by the General Staff of the Armed Forces of Ukraine, military administration bodies (if they are formed), and control of activities on other matters is performed by the Cabinet of Ministers of Ukraine, regional state administrations within their powers. The general management of the activities of the military administrations of inhabited localities is carried out by the chiefs of the corresponding district military administrations.<sup>16</sup>

The powers of military administrations are defined in detail in Article 15 of the Law 389-VIII.<sup>17</sup> In the event of impossible functioning of the relevant local self-government bodies, the military administrations of inhabited localities (in addition to the basic powers on introducing and implementing martial law measures) receive the following basic powers, which in peacetime are inherent only to local self-government bodies: 1) preparing, approving and ensuring implementation of the local budget, making changes to it; 2) setting the rates of local taxes and fees, making a decision on granting the corresponding benefits concerning their payment (in accordance with the law); 3) establishment of tariffs for household, communal, transport and other services in the manner and within the limits defined by legislation; 4) management of communal property, objects of housing and communal services, household and trade services, transport and communication, which are in communal ownership; 5) provision of city-planning conditions and land development restrictions (in accordance with the law); 6) management of institutions and institutions of education, health care, culture, physical culture and sports, providers of social services that belong to the territorial communities or are transferred to them; 7) provision of social and cultural institutions that are

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<sup>15</sup> Leheza, Yevhen, Volodymyr Shablysty, Irina V. Aristova, Ivan O. Kravchenko, and Tatiana Korniakova. 'Foreign Experience in Legal Regulation of Combating Crime in the Sphere of Trafficking of Narcotic Drugs, Psychotropic Substances, Their Analogues and Precursors: Administrative and Criminal Aspect'. *Journal of Drug and Alcohol Research* 12, no. 4 (2023). <https://doi.org/10.4303/JDAR/236240> . RF Ayu and K Kiramang, "The Family's Roles in the Effects of Working from Home During the Covid-19 Pandemic on Children (A Case Study of Families in Banda Aceh City)," *EL-Usrah: Jurnal Hukum Keluarga*, no. Query date: 2024-04-12 15:03:05 (2023), <https://jurnal.ar-raniry.ac.id/index.php/usrah/article/view/11959>.

<sup>16</sup> Matviichuk, Anatolii, Viktor Shcherbak, Viktoria Sirko, Hanna Malieieva and Yevhen Leheza. 'Human principles of law as a universal normative framework: principios humanos del derecho como marco normativo universal'. *Cuestiones políticas*, 40(75) (2022): 221-231. <https://doi.org/10.46398/cuestpol.4075.14>

<sup>17</sup> Law of Ukraine "On the Legal Regime of Martial law". Verkhovna Rada Information. May 12, 2015 No. 389-VIII. <https://zakon.rada.gov.ua/laws/show/389-19#Text>

communally owned by the respective territorial communities, as well as by the population with fuel, electricity, gas and other energy carriers; solving issues of water supply, drainage and wastewater treatment.

If the regional and district councils have retained the ability to function, they must perform the functions assigned to them, provided for by the Law on Local Self-Government, even under the conditions of a military administration established in the relevant territory. In this case, the MAs exercise powers of state administrations and powers regarding introducing and implementing measures of the legal regime of martial law, which is regulated in detail by clauses of Article 8 of Law No. 389-VIII.<sup>18</sup>

The distribution of powers between military administrations and local self-government bodies according to various legally provided options for their operation in wartime is presented in the Table 1.<sup>19</sup>

**Table 1. Distribution of powers of military administrations and local self-government bodies under the conditions of various options for creating a military administration**

<p>Military administrations have been established in the region (district, inhabited locality), and the regional, district or local council cannot function</p>	<p>The relevant military administration exercises the following powers:</p> <ul style="list-style-type: none"> <li>- powers of state administration (regional one or district one);</li> <li>- powers on introduction and implementation of measures of the legal regime of martial law;</li> <li>- powers of regional and/or district council, the executive apparatus of which is subordinate to the head of the relevant military administration;</li> <li>- powers of the village, settlement, city council, its executive committee, and the head of the military administration acquires powers of the village/settlement/city mayor</li> </ul>
<p>Military administrations have been established in the region (district), but the regional or district council can function</p>	<p>The MA exercises the following powers:</p> <ul style="list-style-type: none"> <li>- powers of state administration (regional one or district one);</li> <li>- powers on introduction and implementation of measures of the legal regime of martial law.</li> </ul> <p>The regional council or district council exercises its powers, but is subordinated to the military administration within the limits of the established measures of the legal regime of martial law</p>
<p>Military administrations have not been established</p>	<p>The local council exercises its powers, but it is subordinated to the military administration within the</p>

<sup>18</sup> Law of Ukraine “On the Legal Regime of Martial Law”, Verkhovna Rada Information, May 12, 2015 No. 389-VIII. <https://zakon.rada.gov.ua/laws/show/389-19#Text>

<sup>19</sup> Volobuieva, Olena, Yevhen Leheza, Vita Pervii, Yevhenii Plokhuta, and Roman Pichko. ‘Criminal and Administrative Legal Characteristics of Offenses in the Field of Countering Drug Trafficking: Insights from Ukraine’. *Yustisia Jurnal Hukum* 12, no. 3 (2023): 262–77. <https://doi.org/10.20961/yustisia.v12i3.79443>. A Sodiqin and AM Radiamoda, “Dinamika Konstitusi Islam: Dari Periode Kekhilafahan Hingga Nation-State,” *Journal of Islamic Law (JIL)*, no. Query date: 2024-04-12 15:13:15 (2021), <http://e-journal.iainptk.ac.id/index.php/jil/article/view/241>. A Hasan, A Hafidzi, and Y Zaidah, “Modern Law Aspect on Procedural Decision of Sultan Adam Law,” *Al-Abkam*, no. Query date: 2024-03-12 11:48:55 (2019), <https://journal.walisongo.ac.id/index.php/ahkam/article/view/4285>.



in the inhabited locality, but regional and district military administrations have been established	limits of the established measures of the legal regime of martial law. The head of the city council has extended powers. Within the limits of some of these powers, it is mandatory to provide information to the relevant head of the military administration body
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The Law of Ukraine “On the Legal Regime of Martial Law”, determining the modes of functioning of local self-government bodies and their interaction with the military administration, is intensively changing under the influence of the identified problems concerning its application in conditions of martial law.<sup>20</sup>

The Verkhovna Rada of Ukraine promptly responded to certain inconsistencies in the activities of the military administration and the local self-government body and prepared two draft laws: Draft Law No. 7153 dated March 13, 2022. “On Amendments to the Laws of Ukraine “On Central Bodies of Executive Power”, “On Legal Regime of Martial Law” and Draft Law No. 7269 dated April 9, 2022 “On Amendments to the Law of Ukraine “On Legal Regime of Martial Law”<sup>21</sup> regarding functioning of local self-government during the period of martial law”. The Draft Law No. 7153 was adopted by the Verkhovna Rada, but the President did not sign it due to the change in the military and political situation in the country - the Armed Forces of Ukraine liberated Kyiv, Chernihiv and Sumy regions, and the Verkhovna Rada established effective work. This made the provisions of the draft law concerning the central authorities irrelevant. Instead, the legislative amendments regarding improvement of the legal regime of martial law were transferred to the Draft Law No. 7269 - after being finalized and approved by the Verkhovna Rada, it was signed by the President and entered into force. <sup>22</sup>

With the adoption of Law No. 2259-X of May 12, 2022 “On Amendments to Certain Laws of Ukraine Regarding the Functioning of the Civil Service and Local Self-Government during the Period of Martial Law” the individual powers of community heads have been significantly expanded, in particular, they can make decisions on the following issues: 1) transfer of funds from the local budget for the needs of the Armed Forces; 2) creation of institutions to provide free primary legal assistance; 3) control of natural disasters and epidemics; 4) hazardous waste management; 5) release of communally owned land plots from illegally placed temporary structures (buildings); 6) inspection of buildings and structures damaged as a result of hostilities; 7) dismantling of buildings and structures, which (according to the survey results) are recognized as dangerous and posing a threat to people’s lives.<sup>23</sup>

In the last three cases, it is mandatory to inform the head of the relevant military

<sup>20</sup> Leheza, Yevhen, Olena Sinkevych, Zorina Kravtsova, Olena Kudriavtseva and Ievgeniia Cherniak. ‘The human right to an environment safe for life and health: legal regulation, contemporary challenges and comparative perspectives’. *Syariah: Jurnal Hukum dan Pemikiran*, 23(2), (2023): 138–150. <https://doi.org/10.18592/sjhp.v23i2.12257>.

<sup>21</sup> Law of Ukraine “On the Legal Regime of Martial Law” Verkhovna Rada Information, May 12, 2015 No. 389-VIII. <https://zakon.rada.gov.ua/laws/show/389-19#Text>

<sup>22</sup> Korniienko, Maksym, Anatolii Desyatnik, Galina Didkivska, Yevhen Leheza, and Oleksiy Titarenko. ‘Peculiarities of Investigating Criminal Offenses Related to Illegal Turnover of Narcotic Drugs, Psychotropic Substances, Their Analogues or Precursors: Criminal Law Aspect’. *Khasanah Hukum* 5, no. 3 (2023): 205–15. <https://doi.org/10.15575/kh.v5i3.31742>. MI Nurjaman and D Witro, “The Relevance of the Theory of Legal Change According to Ibnu Qayyim Al-Jauziyyah in Legal Products by Fatwa DSN-MUI Indonesia,” *El-Mashlahah*, no. Query date: 2024-04-12 15:19:49 (2021), <https://scholar.archive.org/work/g6sfxqtahjhn3bjajddhm5cvq4/access/wayback/https://e-journal.iain-palangkaraya.ac.id/index.php/maslahah/article/download/3181/pdf>.

<sup>23</sup> Fedorenko, V.L. Constitutional Law of Ukraine: textbook. To the 20th Anniversary of the Constitution of Ukraine and the 25th Anniversary of Ukraine's Independence, Kyiv: Lira-K, (2016). 616.

administration within 24 hours.

A new stage of improving the legislation began with the submission to the Verkhovna Rada of Ukraine on September 19, 2022, of Draft Law No. 8056 “Draft of the Law on Amendments to Certain Laws of Ukraine on Improving the Powers of Local Self-Governing Bodies and Their Officials during Martial Law”. This was caused by an urgent need for urgent corrections to the laws of Ukraine “On Legal Regime of Martial Law”, “On Local Self-Government in Ukraine” and some others - the practical experience of their application by local self-government bodies, military administrations under the conditions of the legal regime of martial law dictated new needs.

In particular, changes are needed in terms of ensuring the system, completeness and clarity of the regulation of the complex of issues regarding exercising powers of local self-government bodies and their officials by military administrations, cases of such exercising, the course of its terms, guarantees for local self-government officials whose powers are temporarily suspended.<sup>24</sup>

There is an urgent need to eliminate contradictions and ensure coordination between some provisions of the Law of Ukraine “On Legal Regime of Martial Law” and the Law of Ukraine “On Local Self-Government in Ukraine”, which arose mainly as a result of a new model of exercising powers of the Central Government of local self-government bodies implemented by the Law of Ukraine dated May 12, 2022 No. 2259-IX “On Making Changes to Some Laws of Ukraine Regarding Functioning of the Civil Service and Local Self-Government during the Period of Martial Law”.

Changes are needed to the legal mechanism for forming MAs of an inhabited locality (inhabited localities) within the boundaries of the territorial community where the relevant military-civilian administrations operated. Currently, there is no real mechanism of a territorial basis for military-civilian administrations formed by the President of Ukraine outside the Donetsk and Luhansk regions after termination (cancellation) of martial law.<sup>25</sup>

Strategic changes possible to be implemented subject to adoption of the draft law deserve a positive assessment, these are such changes as:

1. powers of those military administrations that operate on the territory together with local self-government in a limited regime (until a separate decision of the Verkhovna Rada) are dissolved, as well as those of military administrations provided by the Verkhovna Rada (on the proposal of the President of Ukraine) with full power on the territory (in case of failure of local authorities self-government to ensure martial law measures);
2. the norm regarding obtaining the authority of the head of the community to be the head of the military administration of the inhabited locality is clearly determined. Bureaucratic procedures for employment of employees of military administrations of inhabited localities, including former employees of local self-government bodies, have been simplified;
3. the prescription regarding initiation before the President of Ukraine of the adoption of a decision on formation of a military administration upon submission of

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<sup>24</sup> Dymko, Iegor, Arsen Muradian, Yevgeny Leheza, Andrii Manzhula, and Oleksandr Rudkovskiyi. ‘Integrated Approach to the Development of the Effectiveness Function of Quality Control of Metal Products’. *Eastern-European Journal of Enterprise Technologies* 6, no. 3 (90) (2017): 26–34. <https://doi.org/10.15587/1729-4061.2017.119500>.

<sup>25</sup> Leheza, Yevhen Oleksandrovyeh, Viktor Filatov, Volodymyr Varava, Vira Halunko, and Kartsyhyn Dmytro. ‘Scientific and Practical Analysis of Administrative Jurisdiction in the Light of Adoption of the New Code of Administrative Procedure of Ukraine’. *Journal of Legal, Ethical and Regulatory Issues* 22, no. 5 (2019): 1–8. <https://dspace.oduvs.edu.ua/items/8756f8b6-59a2-4d6b-920c-b68d55efae0e>

individual subjects of power has been supplemented with relevant provisions in other parts of the draft law on the possibility of these subjects to raise such issues before the President of Ukraine. This enables the head of the state, if necessary, to make a decision on this matter independently, focusing on the entire available range of information sources, and not only on the proposals of a limited range of subjects;

4. the President of Ukraine has been given the opportunity to form military administrations of an inhabited locality (inhabited localities), whose powers will exclusively include implementation of measures of the legal regime of martial law and which will operate on the same territory of jurisdiction with the local self-government bodies of territorial communities and the relevant village/settlement/ city mayor. However, only in case of failure to exercise powers or in case of decision-making in violation of the law by at least one of the subjects of the system of local self-government of territorial communities, the President of Ukraine can (at the proposal of the relevant regional state administration (regional military-civilian administration, local self-government bodies - if they are formed) make a submission to the Verkhovna Rada of Ukraine for decision-making regarding exercising by the previously formed MAs of the inhabited locality (inhabited localities) of powers regarding specified village/ settlement/ city council, its executive committee and the village/settlement/city mayor;

5. amendments were made to the Law of Ukraine “On Military-Civil Administrations” (the effect of which is still limited to the areas of conducting anti-terrorist operations and implementation of measures regarding ensuring national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions) in terms of the extending its norms to all administrative-territorial units and territories of territorial communities in Ukraine - taking into account the norms of the current Law of Ukraine “On Legal Regime of Martial Law”, which enable the President of Ukraine to form appropriate military-civilian administrations in the cases provided for by this Law, after termination (cancellation) of martial law in the territories where military administrations operated.

6. Amendments were made to Clause 28 of Chapter XIII “Final and Transitional Provisions” of the Law of Ukraine “On Prevention of Corruption” and canceled are the exceptions specified in this clause for local self-government officials of the first - third categories (regional, district and local leadership of local self-government bodies, including heads of district councils and some mayors) which continue to subject such persons to restrictions established by clause 1 of part one of Article 25 of this Law. This will enable people, previously occupying management positions in local self-government bodies, but today deprived of this due to the temporary suspension of local self-government bodies’ exercising the powers granted by law, to find opportunities to earn money, to ensure living conditions for themselves and their families (at the same level as regions and districts, for the heads of relevant structural units of ministries and other central executive bodies with the same territory of jurisdiction as local self-government bodies, the specified provisions of the Law of Ukraine “On Prevention of Corruption” do not establish any exceptions).<sup>26</sup>

Local self-government in Ukraine has proven its viability under martial law. In most regions, local self-government bodies have preserved their functionality and manageability, the ability to carry out effective management at the local level in cooperation with the state authorities in the form of the military administration and their leaders.

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<sup>26</sup> Leheza, Yevhen, Bogdan Shcherbyna, Yulia Leheza, Olena Pushkina, and Olesia Marchenko. ‘Features of Applying the Right to Suspension or Complete/ Partial Refusal to Fulfill a Duty in Case of Non-Fulfilment of the Counter Duty by the Other Party According to the Civil Legislation of Ukraine’. *Revista Juridica Portucalense*, no. Sp. (2023): 340–58. [https://doi.org/10.34625/issn.2183-2705\(ne\)2023.ic-17](https://doi.org/10.34625/issn.2183-2705(ne)2023.ic-17)

There are at least three modes of interaction of local self-government bodies with the MA in the work of different communities: (1) replacement of local self-government bodies by military administration; (2) joint management of the community by local self-government bodies and the MA; (3) expanded powers of local self-government bodies with partial subordination to the higher-level military administration. Application of this or that mode depends on the specific living conditions of the community.<sup>27</sup>

In most regions, regional and district councils exercise their powers defined by the Law of Ukraine “On Local Self-Government in Ukraine” in parallel with the work of the relevant military administrations. The latter perform the functions of state administrations and exercise leadership in the sphere of defense, public safety and order.

Enshrining the list of regions in the Constitution of Ukraine (which is a unitary state) does not justify itself. In addition, attention is focused on internal administrative boundaries - in conditions of war and temporary loss of territorial integrity, this has negative symbolism. After all, the claims of the Russian Federation for recognition of self-proclaimed terrorist organizations within certain regions became one of the reasons for the active phase of the war. In addition, the paradigm of false federalism can lead to critically dangerous consequences in the future - the link of tension may consist in creation of a separate executive body of the regional council (under current conditions, it is the regional administration, which is simultaneously part of both the executive power and the presidential vertical). Danger of such an approach for the integrity of the state was confirmed by the precedent of 2016, when five regional councils (Zhytomyr, Ivano-Frankivsk, Odesa, Khmelnytsky, Kirovohrad) decided to appeal to the President of Ukraine, the Chairman of the Verkhovna Rada of Ukraine and the Prime Minister of Ukraine regarding the need to conclude agreements on the distribution of powers between by the Cabinet of Ministers of Ukraine, regional state administrations and regional councils.<sup>28</sup>

Territorial communities and their military administrations are the main link in ensuring stability in the war conditions at the regional level; their functioning is supported by local self-government bodies.

### **Peculiarities of the Functioning of Territorial Communities of Ukraine during the War by the Example of Dnipropetrovsk Region**

Dnipropetrovsk region has no occupied parts, in particular, thanks to the timely preparation of defense lines and the internal defense system at the initiative of the territorial communities themselves. Meanwhile, the region borders several combat zones in Donetsk, Zaporizhia, Kherson regions, it is close to such zones in Kharkiv and Luhansk regions, and provides rear support in these directions.

Stability of the region is based on its socio-economic condition. Before the large-scale military attack of the Russian Federation against Ukraine, the Dnipropetrovsk region played a leading role in the country by many indicators, sharing the first / second place among regions with Kyiv. In the conditions of war, the relative economic weight of the region is just as high. This year economic indicators are already going to be recovered to

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<sup>27</sup> Leheza, Yevhen, Volodymyr Shablysty, Irina V. Aristova, Ivan O. Kravchenko, and Tatiana Korniakova. ‘Foreign Experience in Legal Regulation of Combating Crime in the Sphere of Trafficking of Narcotic Drugs, Psychotropic Substances, Their Analogues and Precursors: Administrative and Criminal Aspect’. *Journal of Drug and Alcohol Research* 12, no. 4 (2023). <https://doi.org/10.4303/JDAR/236240>.

<sup>28</sup> Leheza, Yevhen, Karina Pisotska, Oleksandr Dubenko, Oleksandr Dakhno, and Artur Sotskyi. ‘The Essence of the Principles of Ukrainian Law in Modern Jurisprudence’. *Revista Jurídica Portuguesa* 32 (2022): 342–363. [https://doi.org/10.34625/issn.2183-2705\(32\)2022.ic-15](https://doi.org/10.34625/issn.2183-2705(32)2022.ic-15).

the pre-war level.

Provision of rear support in several operational directions (southern one (Kherson and Zaporizhzhya regions), northern one (Kharkiv region), eastern one (Donetsk region)) poses the following priority tasks for military administrations, regional and local authorities: 1) purely military issues - development of echelon defense in the region in all directions. At present, the Kryvorizky and Nikopol districts, directly close to the front line, are under the greatest military pressure in the west and south - they are regularly fired at by Russian troops from multiple rocket launchers, barrel artillery, and mortars. In the east, methodical missile attacks (primarily on transport infrastructure objects) are aimed at the territory of Synelnykove district; 2) organization of a logistics regional hub to provide the troops, primarily with weapons mainly transported by rail and road transport from the western borders of the country; 3) organization of logistic services for provision of medical assistance to the military; 4) preparation of Territorial Defense formations; 5) solving the issues of internally displaced persons. The largest numbers of refugees move to the region from Donetsk and Kharkiv regions. The vast majority of IDPs, after receiving basic assistance, move further to the Center and West of Ukraine, but a significant number remain in the Dnipropetrovsk region, which requires solving the issue of their accommodation. At the same time assistance to refugees can be rendered by Dnipropetrovsk territorial communities on their own by means of using resources of the region and help from charitable organizations and foundations.

*Budgets of communities.* The level of implementation of community budgets is one of the indicators showing effectiveness of the work performed by Military Administrations and Local Government Organizations, as well as ability to perform their functions in wartime conditions. In the first months of the invasion, the depth of budgetary problems in territorial communities increased significantly, as compared to peacetime. The most important issues consisted in the social protection of citizens, assistance to military personnel and displaced persons, support for formations of territorial defense bodies, implementation of planned activities and local programs. However, despite all the negative factors, economic activity began to recover quickly and already four months after the start of the large-scale Russian attack it practically reached the pre-war level.

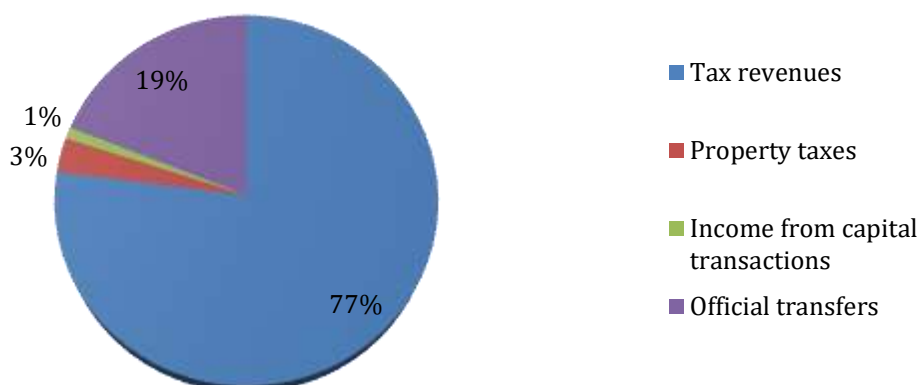
In the first four months of the year, despite hostilities and significant migration processes from the region to the west, the local budgets of territorial communities in Dnipropetrovsk region received UAH 9,915 million in tax revenues, which is UAH 1,163 million (or 13.4%) more than in the same period of the last year. The plan for 2022 envisaged an increase in revenues by 14.9% - in general, it was fulfilled by 97.9% in the region. 55 communities out of 86 ones fulfilled the planned indicators, and the Cherkaska and Mykolaivska communities of the Synelnykove district had the highest percentage of implementation - 267.9% and 219.9%, respectively.

As of September 2022, the seventh month after the start of the large-scale Russian invasion, the increase in tax revenues of communities in the region compared to the previous year was already 24%.

Personal income tax is one of the main sources of filling community budgets (Figure 1). For 9 months of 2022 local budgets of the Dnipropetrovsk region received 16,364,124 Ukrainian hryvnias (UAH) as personal income tax, which is 34% more than for the same period in 2021.

**Figure 1. Structure of Sources of Filling Local Budgets of Dnipropetrovsk Region**

## Structure of sources of filling local budgets of Dnipropetrovsk region



Revenues from the single tax increased by 10%. At the same time, there are losses of local budgets in connection with termination of economic activity of a number of enterprises and farms, reduction of personnel and other unforeseen circumstances.

Revenues from property tax increased the least - by 7% compared to 2021.

The analysis of own tax revenues to the budgets of regional communities, regardless of official transfers, shows a decrease in rates only in the first month of the war - in March (Figure 1). During the period of April - June, the growth was relatively small - adaptation to war conditions took place; and since July, the pace has increased significantly.

Due to the improvement of the economic situation, the Dnipro City Territorial Community at an extraordinary session of the city council in July decided to reduce the rates of land fees and taxes on real estate, other than land, from January 1, 2023. This was done in order to reduce the tax burden and help entrepreneurs find premises for their activities.

To restore the pace of construction of residential and non-residential real estate in the city the following indexes were *decreased*: more than four times (from 2.3% to 0.5%) - the rate of payment for land plots intended for construction of residential and public buildings, as well as for construction of other structures intended for conducting various spheres of business; more than twice - the rate for land plots provided for the activities of communication enterprises; almost twice (from 2.3% to 1.3%) - the payment rate for land plots intended for location and operation of industrial enterprises, as well as vulnerable sectors of the economy (such as energy and transport).<sup>29</sup>

Thus, the Dnipropetrovsk region provides rear support in several operational directions of hostilities, while none of its territories are occupied. Only seven communities out of 86 were recognized as affected by hostilities.

The stability of the Dnipropetrovsk region is ensured by high economic potential

<sup>29</sup> Leheza, Yevhen, Larysa Yerofieienko, and Volodymyr Komashko. 'Peculiarities of Legal Regulation of Intellectual Property Protection in Ukraine under Martial Law: Administrative and Civil Aspects'. *Revista Justiça Do Direito* 37, no. 3 (2023): 157–72. <https://doi.org/10.5335/rjd.v37i3.15233>



and well-timed organizational decisions. Such a relatively high level of security in such close proximity to war zones makes the region attractive for internally displaced persons and relocated enterprises.

The economic situation in the region is gradually improving and has almost reached the pre-war level. At the same time, there were changes in the structure of the economy - mining and metallurgical enterprises were partially stopped due to logistical problems, the situation will not improve until the end of hostilities.

In order to organize life in the de-occupied territories of Ukraine, it is advisable to follow a set of measures that will make it possible to preserve justice and punish criminals and at the same time create conditions for life support activities of communities thanks to provision of a system of state administration and local self-government in the special conditions of martial law.

## **CONCLUSION**

The decentralization reform is one of the most successful in recent years. Based on its results, the basic link of local self-government, social life and national resistance of Ukraine was created. In the conditions of war territorial communities passed the crash test and became the basic link that ensures stability of the rear. At the initial stage of the large-scale Russian aggression, the territorial communities assumed the support of the Armed Forces and part of their functions, ensuring livelihood of the community (often in conditions of hostilities); facilitated the evacuation and placement of the population in relatively safe communities; contributed to relocation of enterprises, and what is more to the maintenance of stability in society.

Local self-government in Ukraine has proven its viability under martial law. In most regions, local self-government bodies have preserved their functionality and manageability, the ability to carry out effective management at the local level in cooperation with the state authorities in the form of military administrations and their leaders. There are at least three modes of interaction between local self-government bodies and military administrations (modes used by different communities): replacement of local self-government bodies by military administration; joint management of the community by local self-government bodies and military administrations; expanded powers of local self-government bodies with partial subordination to the higher-level military administration. Application of this or that mode depends on the specific living conditions of the community.

In most regions of Ukraine, regional and district councils continue to exercise their legally defined powers in parallel with the work of military administrations. The latter perform the functions of state administrations and exercise leadership in the sphere of defense, public safety and order. Territorial communities and their military administrations are the main link in ensuring stability in the war conditions at the regional level; their functioning is supported by local self-government bodies. Several years of operation in the conditions of fiscal decentralization and the experience of remote forms of work during the coronavirus pandemic helped the rear communities to quickly adapt to life in the conditions of war. Over the course of a few months, the rear communities were able to restore economic indicators to the levels at the beginning of the full-scale Russian aggression. This made it possible to ensure stability of the rear, in particular with regard to the placement of internally displaced persons and relocation of enterprises.

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