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PECULIARITIES OF THE FUNCTIONING OF TERRITORIAL COMMUNITY STATUTES THROUGH THE LENS OF LEGISLATIVE CHANGES DURING UKRAINE’S EUROPEAN INTEGRATION

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The functioning of a democratic society cannot exist without a developed system of local democracy, which presupposes the presence of effectively operating local self-government institutions. When considering democratic values through the lens of citizen participation in decision-making, it is essential to ensure real guarantees for the exercise of their rights at the local level. The right of community residents to independently resolve local issues is guaranteed by the Constitution of Ukraine. Creating appropriate conditions for ensuring residents' participation in the daily management of local affairs is a key objective enshrined with legal force in the foundational document of each territorial community, as provided in its statute.

The statute is the sole local normative legal act that regulates instruments of resident participation in addressing local issues, such as general assemblies (conferences) of residents, local initiatives, public hearings, and public evaluation of the activities of local self-government bodies and officials. The statute serves as the primary local normative legal act that defines the general principles for the development of the territorial community, which are subsequently specified in strategic documents.

Thanks to the adoption of the European Charter of Local Self-Government in 1985, local self-government has become an important institution that established participatory democracy at the local level. A significant driving force behind the implementation of participatory democracy by community residents is the enshrinement of such rights in the statute of the territorial community. Until recently, statutes did not have a mandatory character regarding their adoption at the national legislative level in Ukraine. However, over time, the practice of using territorial community statutes has gradually developed, which eventually led to amendments to the Law of Ukraine “On Local Self-Government in Ukraine” in 2024. Starting from January 1, 2027, the existence of an adopted statute will become mandatory for every territorial community. At the same time, all existing community statutes will require revision, as recent years have brought significant legislative changes (in connection with the *acquis communautaire*) that establish legal foundations for public participation in local governance processes and guarantee transparency in the activities of local self-government bodies.

Keywords: local community, statutes, local self-government bodies, European integration, participatory democracy, local democracy, legislative transformations.

Formulation of the problem. In the context of the ongoing reform and restructuring of the local self-government system in Ukraine, the state continues to align national legislation with the standards of the *acquis communautaire*. This process also encompasses the recently adopted draft law amending the Law of Ukraine “On Local Self-Government in Ukraine” and other legislative acts concerning the implementation of popular sovereignty at the local level. One of the key provisions of this reform is the introduction of a mandatory requirement for every territorial community to adopt its own statute. At present, there is no unified or standardized procedure governing the adoption of such statutes. Moreover, not all territorial communities have implemented statutes in practice, which creates potential risks for the functioning of local democracy, including participatory democracy. The absence of statutes may significantly reduce the ability of residents to influence and hold accountable local authorities within their communities.

Although new legislative initiatives in the sphere of local self-government have been introduced, numerous legal inconsistencies and conflicts remain unresolved. These challenges are particularly relevant to the regulation and implementation of local community statutes, which require further legal and institutional clarification.

Analysis of the study of the problem. The legal nature of territorial community statutes has been the subject of scholarly research by numerous academics, including , Iryna Idesis, Mykhailo Kelman, Volodymyr Kobryn, Nataliia Myshyna, Sherry Arnstein, Anatolii Tkachuk, Yuri Bysaha, Oleksandr Bata-nov, Mariia Husiak, Iryna Drobush, Viktor Kravchenko, among others.

The aim of this study is to examine the legislative transformations in the sphere of local self-government, which are inextricably linked to the statutes of territorial communities during Ukraine’s pursuit of European integration, and to assess their impact on the development of participatory democracy.

Presenting main material. Participatory democracy is one of the fundamental principles underpinning the functioning of a democratic state and a civil society grounded in constitutional democracy. One of the key conceptual frameworks for analyzing public participation is the “Ladder of Citizen Participation” model developed by American researcher Sherry Arnstein in 1969. In this context, the statute of a territorial community can be considered a European-type legal act that expands the powers of the community in managing urban life. The statute plays a significant socio-political role. It is often referred to as a “local constitution,” as it provides residents of the territorial community with a formal mechanism for engaging in the resolution of local issues.

As a subordinate legal act adopted by the local council, the statute is intended to reflect the historical, cultural, socio-economic, and other specific characteristics of the local self-government system. It also regulates the participation of community members in its functioning. Therefore, such a local act lays the foundation for a democratic civil society by establishing procedures that enable every resident to engage in the activities of local authorities.

The most common forms of participatory democracy reflected in community statutes include public hearings, electronic petitions, requests for access to public information, public examinations (expert reviews), local initiatives, citizen appeals, among others. This list is not exhaustive, as local self-government bodies may introduce any other forms of participatory democracy, provided they are not prohibited by the Constitution of Ukraine or applicable laws. One particularly popular participatory mechanism in Ukraine is the local (public) budget, which enables residents to be directly involved in the development and approval of the local budget. This instrument is enshrined, for example, in the statutes of the Khmelnytskyi, Vinnytsia, Lutsk, Ternopil, and Lviv territorial communities.

For instance, the Regulation on the Participatory Budget of the Lutsk Municipal Territorial Community defines an information and communication platform, procedures for public notification, standardized forms for submitting project proposals, deadlines, compliance requirements for projects, and security conditions for organizing public events. To submit a project for the participatory budget, it must be supported by 15 signatures of legally capable residents registered within the settlements of the Lutsk Municipal Territorial Community. The procedure allows for both online and offline submission formats [1].

In the context of analyzing territorial community statutes, particular attention should be paid to the preamble, which reflects the purpose and intent behind their adoption by the community. A noteworthy example can be found in the preamble to the Statute of the Ivano-Frankivsk Territorial Community, which expresses “the will of the entire territorial community of the city, including all its constituent parts, regarding the mechanisms of local self-government in the city; guarantees all members of the territorial community the right to participate in local self-governance; and establishes procedural rules and regulations for the exercise of this right [2]”

Similarly, the Statute of the Rivne Territorial Community highlights the principle of “good democratic governance, which is based on the implementation of the powers of local self-government in close cooperation with the public and all stakeholders, with the aim of improving the quality of life of citizens and the development of the community. Such governance exists when the individual is placed at the center of all democratic institutions and processes” [3].

According to the charter adopted by the Lviv City Council in 2017, compared to the previous charter of 2002, it contains a number of modern European changes. Through comparative analysis, we can observe while the previous version of the document recognized only three forms of citizen participation in decision-making in Lviv-referendums, public hearings, and local initiatives- the new version significantly expands this list. In particular, the procedure for conducting public hearings has been elaborated in greater detail, and the city council is now obligated to hold such hearings in a number of specified cases. Furthermore, the revised document formally introduces additional participatory mechanisms, including general meetings of residents, electronic petitions, the participatory budget (citizens’ budget), and public advisory councils affiliated with various municipal departments [4].

General meetings of residents are gatherings convened within specific residential areas - such as micro-districts, housing complexes, neighborhoods, streets, or individual buildings to discuss and address local matters falling under the jurisdiction of the territorial community and the local self-government bodies of the City of Lviv.

Electronic petitions represent a form of collective initiative by Lviv residents regarding pressing local concerns, such as illegal markets, parking challenges, or waste sorting. Under the current regulation in Lviv, a petition must collect at least 500 verified signatures through the Bank-ID system to be considered for review by the city council.

Another notable innovation is the inclusion in the statute of the concept of public councils established under the departments of the city council. According to the statute’s drafters, these councils are intended to serve as a bridge between municipal officials and professional communities. At present, more than 20 such public councils have already been formed within the Lviv City Council, comprising individuals who represent professional sectors and enjoy a degree of recognition in their respective fields.

The statute also introduces a set of new responsibilities for residents of Lviv. These include: showing respect for the city’s historical and cultural heritage; treating municipal infrastructure and resources with care and responsibility; preserving the natural environment, including green spaces and urban ecology; exercising one’s rights and legitimate interests with respect for the rights of other members of the Lviv territorial community; complying with the acts issued by local self-government bodies and officials; and paying local taxes and fees. Several articles of the new statute are also dedicated to the cultural heritage of Lviv, particularly the areas included in the UNESCO World Heritage zone and its buffer zone. The document specifically states that any architectural or urban planning interventions within the historical center of the city may only be carried out with the approval of the UNESCO World Heritage Committee and in accordance with a comprehensive plan for regeneration, revitalization, and restoration.

In the course of researching the functioning of local statutes, it is appropriate to highlight several legislative changes. Among these is the new draft law No. 7283, “On Amendments to the Law and Other Legislative Acts of Ukraine Regarding Popular Sovereignty at the Local Self-Government Level,” which was adopted by the Verkhovna Rada of Ukraine on May 9, 2024 [5]. This legislation now establishes the mandatory adoption of statutes by local authorities. According to the transitional and final provisions of the law, the obligation to adopt

statutes will come into effect on January 1, 2027. Based on this draft law, amendments were also made to Part 2 of Article 19 of the Law of Ukraine “On Local Self-Government in Ukraine.” Until this time, the legislation did not provide for the imperative nature of statute approval by local authorities.

The adoption of territorial community statutes involves a rather complex process. During their development, it is essential to consider the provisions of legislative acts that influence the involvement of residents in addressing local issues. These include the Laws of Ukraine “On Local Self-Government in Ukraine,” “On Citizens’ Appeals,” “On Access to Public Information,” “On the Principles of State Regulatory Policy in the Sphere of Economic Activity,” the Budget Code of Ukraine, the Electoral Code of Ukraine, and the Tax Code of Ukraine.

Additionally, relevant regulations include the Cabinet of Ministers of Ukraine Resolutions No. 555 dated May 25, 2011, “On Approval of the Procedure for Conducting Public Hearings on Urban Planning Documentation Projects at the Local Level,” and No. 1159 dated October 14, 2022, as well as the draft law No. 13124 dated March 20, 2025, “On Amendments to the Law of Ukraine ‘On Local State Administrations’ and Certain Other Legislative Acts of Ukraine Concerning the Reform of the Territorial Organization of Executive Power in Ukraine.” The absence of statutes in many territorial communities has led to a situation where residents, as members of these communities, have not fully understood their rights and mechanisms to influence local authorities, since these rights have largely been delegated to corresponding village, city councils, and mayors. It is worth agreeing with the statement by Maksym Latsyba, one of Ukraine’s leading experts on local self-government reforms: “If there is no statute, then there is no procedure. It looks like this: ‘Do you have the right? Yes, you do! Can you exercise it? No, you cannot!’” [6].

In this regard, Serhii Sharshov, Head of the Department for Local Self-Government Development, Territorial Organization of Power, and Administrative-Territorial Structure at the Ministry for Communities, Territories, and Infrastructure Development of Ukraine, noted: “Regarding subordinate legal acts, there is a very fine line, since according to the European Charter of Local Self-Government and the Constitution of Ukraine, the government has no right to interfere in local self-government affairs. The adoption of statutes is a unique process because each community has its own conditions and capacities, and statutes may differ significantly. The Ministry’s position is, firstly, to develop methodological recommendations to help define typical solutions for territorial communities. Secondly, to promote best practices, we will showcase successfully implemented local self-government solutions concerning statute adoption.” [6,ibid]. Furthermore, civil society institutions, such as non-governmental organizations, play a significant role. With the support of EU funding, they publish their research results in the form of manuals or organize roundtables involving both foreign and domestic experts.

A standardized procedure for the adoption of statutes by public authorities is particularly important for village, settlement, and city councils that lack practical experience in this area. In addition to state-issued methodological guidelines for adopting local statutes, it is essential to ensure effective interaction between state authorities and local self-government bodies through the organization of open meetings, conferences, briefings, or training sessions of a consultative nature involving their officials.

However, it is also important to note that, since January 2025, the state registration of statutes by government authorities, specifically the Ministry of Justice of Ukraine, has ceased. This change resulted from the new edition of the Law of Ukraine “On Local Self-Government in Ukraine,” which removed the provision requiring state registration of statutes of territorial communities of villages, settlements, and cities by the central executive authority responsible for state registration (legalization) of public associations and other civic formations [7].

When analyzing the legal framework, attention should be drawn to the new draft Law No. 13124 dated March 20, 2025, “On Amendments to the Law of Ukraine ‘On Local State Administrations’ and Certain Other Legislative Acts of Ukraine Regarding the Reform of the Territorial Organization of Executive Power in Ukraine.” This draft law addresses the issue of ensuring legality in the activities of local self-government bodies by local state administrations through state control over acts of local self-government bodies and officials. It also provides the possibility for local state administrations to file lawsuits seeking recognition of acts of local self-government bodies as illegal in cases defined by the draft law, thereby ensuring judicial oversight [8]. This approach reflects the European experience of Poland.

Importantly, these provisions do not conflict with Articles 8 and 11 of the European Charter of Local Self-Government. According to this legal norm, local state administrations are vested with the authority of state power to supervise the legality of decisions made by local self-government bodies, including statutes. Such control must be exercised within the limits and on the basis of the Constitution and laws of Ukraine. At the same time, it should not amount to interference by state authorities or their officials in the exercise of powers delegated to local self-government bodies. The draft law also establishes a mandatory rule that state control by the local administration must be exercised no later than 60 days from the date the respective act of the local self-government body comes into force. Moreover, the European integration processes related to the adoption of territorial statutes require compliance with the principles enshrined in the European Charter of Local Self-Government, which sets the foundations for the functioning of local democracy. According to its provisions, state supervision should be exercised only in cases and procedures defined by law, with any intervention being proportionate to the interests being protected.

In 2019, the Committee of Ministers of the Council of Europe adopted Recommendation CM/Rec, urging member states to establish the necessary legal and institutional framework for the supervision of local authorities' activities [9]. The Council of Europe also issued an opinion on the earlier draft law No. 4298 ("Draft Law on Amendments to the Law of Ukraine 'On Local State Administrations' and Certain Other Legislative Acts of Ukraine Regarding the Reform of the Territorial Organization of Executive Power in Ukraine"), emphasizing that Ukraine is the only European country lacking a mechanism for administrative supervision over the legality of decisions made by local self-government bodies.

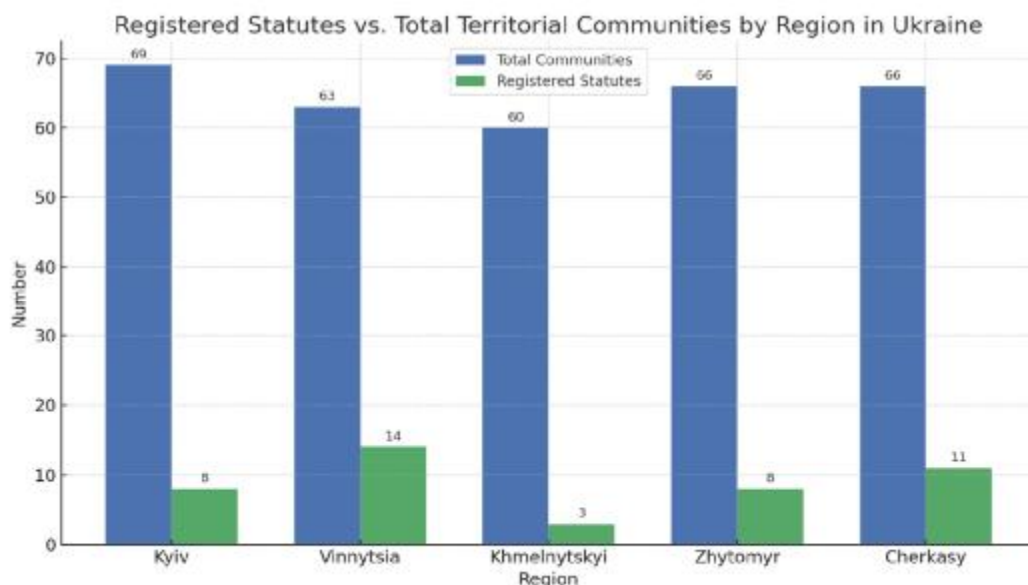
Regarding the revised draft law, no new opinion from the Council of Europe has yet been issued. However, the Committee of the Verkhovna Rada of Ukraine on Ukraine's Integration into the European Union has expressed reservations and called for further refinement. These concerns focus on the powers of local state administrations to exercise state control over acts of local self-government bodies in cases where the central executive authorities and/or their territorial subdivisions lack the authority to conduct state supervision and control over the activities of local self-government bodies within the relevant sector.

Thus, according to the current version of Article 19 of the Law of Ukraine "On Local Self-Government in Ukraine," the representative body of local self-government still retains the authority to adopt the statute of a territorial community, which defines the forms and procedures of public participation at the statutory level or to bring the statute into compliance with the new law. The Verkhovna Rada of Ukraine has granted community leadership a significant timeframe of two years for the development of the statute, which may encourage local councils to postpone this process for an extended period. Therefore, it is important to emphasize that the development of this fundamental local normative act must be carried out with active public involvement, a process that requires considerable time. Accordingly, local councils should begin work on new statutes or revise already approved ones by incorporating the amendments stipulated by the law, without waiting for the law to come into effect and without postponing the process until 2027.

Currently, an analysis of the ratio between the number of existing territorial communities in certain regions of Ukraine and the proportionate number of statutes registered by the interregional territorial offices of the Ministry of Justice of Ukraine reveals a rather low adoption dynamic. For example, Kyiv Oblast has 69 territorial communities, but only 8 of their statutes are registered [10]. Vinnytsia Oblast, which includes 7 districts and 63 communities, has 14 registered statutes [11]. Khmelnytskyi Oblast, covering 3 districts and 60 communities, has only 3 registered statutes, excluding the statutes of the largest communities except for the Khmelnytskyi city territorial community [12]. Zhytomyr Oblast counts 66 territorial communities, but only 8 statutes have undergone state registration [13]. In Cherkasy Oblast, which consists of 4 districts and 66 communities, 11 statutes have been registered [14].

As can be seen, the statistics are not particularly encouraging and compel important conclusions. Local authorities need to take these shortcomings into account. It is evident that in the near future the percentage dynamics will significantly increase, since the legislator now obliges community councils to approve new statutes or bring existing ones into compliance with the requirements by January 1, 2027.

Therefore, the development of a local "constitution" must occur with broad public involvement, which will require considerable time. It is necessary to begin drafting new statutes or reviewing those already approved, taking into account the amendments stipulated by law, without waiting for it to come into force.



(annex 1)

Conclusions. In analyzing the legal nature of territorial statutes, we observe legislative and European integration transformations concerning their adoption. Interaction between state authorities and local self-government bodies must be maintained, with the crucial condition that total interference in the functioning of local self-government during the development and adoption of local statutes is avoided. It is evident that the legislator seeks to ensure that new legislative changes are aimed at improving mechanisms of popular sovereignty and optimizing procedures at the local self-government level. Several new draft laws provide greater autonomy to territorial communities and simplify regulatory processes, which will contribute to the development of local self-government in Ukraine.

Legal matters that fall within the exclusive competence of state authorities should not be regulated in the statute but only those that fall within the jurisdiction of local self-government. In connection with the ongoing decentralization reform and amendments to current legislation, significant legislative changes have been observed regarding the mandatory adoption of a community statute by each local authority. Although many challenges lie ahead, effective functioning of these structures can be ensured through clear and balanced interaction between state authorities and local self-government bodies. Most importantly, conditions must be created under which every community resident is brought as close as possible to local government through legally enshrined guarantees provided in the statutes of territorial communities.

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ОСОБЛИВОСТІ ФУНКЦІОНУВАННЯ СТАТУТІВ ТЕРИТОРІАЛЬНИХ ГРОМАД КРІЗЬ ПРИЗМУ ЗАКОНОДАВЧИХ ЗМІН В ПЕРІОД ЄВРОІНТЕГРАЦІЇ УКРАЇНИ

Функціонування демократичного суспільства не може існувати без розвиненої системи місцевої демократії, яке передбачає наявність ефективно діючих інститутів місцевого самоврядування. Якщо розглядати демократичні цінності крізь призму участі громадян у прийнятті рішень, необхідним є забезпечення реальних гарантій для реалізації ними своїх прав на місцевому рівні. Право мешканців громади самостійно вирішувати місцеві питання гарантовано на конституційному рівні. Створення належних умов для забезпечення участі жителів громади в щоденному управлінні місцевими справами є ключовою метою закладеного в основоположному документі наділеною юридичною силою для кожної територіальної громади передбаченого в її статуті. Статут є єдиним локальним підзаконним нормативно-правовим документом, який регламентує такі форми участі жителів у вирішенні місцевих питань, як загальні збори (конференції) мешканців, місцеві ініціативи, громадські слухання та оцінювання діяльності органів і посадових осіб місцевого самоврядування. Водночас, цей юридичний акт виступає головним нормативним актом на місцевому рівні, що закладає базові принципи розвитку територіальної громади, які надалі деталізуються у відповідних стратегічних документах.

Завдяки прийнятій Європейській хартії місцевого самоврядування в 1985 року, місцеве самоврядування стало важливим інститутом, який закріпив учасницьку демократію на місцевому рівні. Важливою рушійною силою реалізації партисипативної демократії з боку жителів громади є закріплення такого права в статуті територіальної громади. До нещодавна, статuti не містили обов'язкового характеру щодо їхнього прийняття на рівні національного законодавства України. Однак, з часом поступово склалася практика використання статутів територіальних громад, що зрештою призвело до внесення змін до Закону України «Про місцеве самоврядування в Україні» у 2024 році. Починаючи з 1 січня 2027 року наявність прийнятого статуту стане обов'язковою для кожної територіальної громади. В той самий час всі чинні статuti громад потребуватимуть перегляду, оскільки останні роки внесли суттєві зміни до законодавства (у зв'язку з *acquis communautaire*), що встановлює правові засади участі громадськості у процесах місцевого врядування та гарантує прозорість діяльності органів місцевого самоврядування

Ключові слова: територіальна громада, статuti, органи місцевого самоврядування, євроінтеграція, партисипативна демократія, місцева демократія, законодавчі трансформації.