

Amendments to the Constitution of Ukraine

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I. Administrative and Territorial Structure

Article 132

The administrative and territorial structure of Ukraine shall be based on the principles of unity, cohesiveness and integrity of the State territory, decentralization and subsidiarity in the organization of the state power, ubiquity of local self-governance, balanced and sustainable development of territories considering their historical, economic, environmental, geographic, and demographic characteristics, and ethical and cultural traditions.

Article 133

The system of administrative and territorial structure of Ukraine consists of the administrative and territorial units: communities, povits (districts), oblasts, the Autonomous Republic of Crimea.

Vinnytsia oblast, Volyn oblast, *Dnipro oblast*, Donetsk oblast, Zhytomyr oblast, Zakarpattia oblast, Zaporizhia oblast, Ivano-Frankivsk oblast, Kyiv oblast, *Kropyvnytskyi oblast*, Luhansk oblast, Lviv oblast, Mykolayiv oblast, Odesa oblast, Poltava oblast, Rivne oblast, Sumy oblast, Ternopil oblast, Kharkiv oblast, Kherson oblast, Khmelnytskyi oblast, Cherkasy oblast, Chernivtsi oblast and Chernihiv oblast are the oblasts of Ukraine.

Communities of the cities of Kyiv and Sevastopol have a special status. The territory of administrative and territorial units shall be integral.

Community is a primary unit in the system of administrative and territorial structure of Ukraine and shall be a territorial basis for local self-governance.

The Oblasts, the Autonomous Republic of Crimea include povits. The povits consist of communities.

Changing the boundaries, naming and renaming of communities shall be conducted taking into account the opinion of their residents in the manner prescribed by law.

Article 92. Laws of Ukraine shall exclusively specify:

- 13) administrative and territorial structure of Ukraine; procedure for forming, liquidating, establishing and changing borders; naming and renaming of communities, povits, oblasts; granting inhabited settlements the status of villages, [rural settlements/towns], cities;
- 16) status of the city of Kyiv as the capital of Ukraine and the city of Sevastopol in the system of administrative and territorial structure of Ukraine, aspects of performing executive power and local self-governance in the city of Sevastopol, aspects of performing executive power and local self-governance in the city of Kyiv to fulfill the functions of the capital.

Article 85. The powers of the Verkhovna Rada of Ukraine shall include:

- 29) establishing and liquidating administrative and territorial units, their naming and renaming upon the submission of the Cabinet of Ministers of Ukraine.

2. Local Self-governance

Article 140

The community that unites residents living on its territory is a primary subject of local self-governance.

Local self-governance is a right guaranteed by the State and capacity of a community to independently regulate and govern a significant part of public affairs under its own responsibility in the interests of its residents directly or through local self-governments under the Constitution and Laws of Ukraine.

The community exercises local self-governance directly through elections, local referendums and other forms specified by law.

Local self-governments of a community include a council and a community head unity. The community head shall form and manage an executive body of the community and preside over a council session.

[Povit,] oblast community council is a local self-government representing common interests of the *[povit,]* oblast communities of an oblast and has an own executive body.

For certain purposes, the Central Executive Body may delegate powers and functions to local self-governance according to the law, and local self-governance may have a right to adapt its activities to local conditions when executing these powers and functions.

The State shall conduct public consultations with local self-governance and its associations when resolving issues related to local self-governance as established by law.

Status of community heads, deputies of community councils, deputies of *[povit,]* oblast community councils, a procedure for establishing, reorganizing and liquidating executive bodies of communities, executive bodies of *[povit,]* oblast community councils shall be established by law.

3. Local Elections

Article 141

Citizens of Ukraine permanently residing in the territory of a respective community, [povit,] oblast shall have a right to vote in local elections.

A citizen of Ukraine, having attained the age of eighteen years as of the day of the elections and have not been declared incapable by the court, may be elected to local self-governments.

A citizen, who serves a sentence for a committed offense or has a criminal record of committing an intentional crime if the record has not been nullified in compliance with a procedure established by law, may not be elected to local self-governments.

The procedure for electing the deputies of [povit,] oblast community councils shall ensure the representation of communities within [povit,] oblast be established by law.

The term of powers of local self-governments elected at the regular elections shall be five years.

Regular elections to local self-governments shall take place on the last Sunday of October of the last year of the powers of local self-governments elected in the previous regular local elections.

Extraordinary elections to local self-governments shall be appointed by the Central Election Commission of Ukraine without delay in the manner prescribed by law.

The grounds and a procedure for early termination of powers of a community head, deputy or member of a community council, [povit,] oblast community council shall be established by the Constitution and Laws of Ukraine.

Requirements of the incompatibility of the mandate of a deputy of a community council, [povit,] oblast community council shall be established by law.

4. Material and Financial Basis

Article 142

Land, moveable and immovable property, natural resources, other communal facilities owned by a community or commonly owned by communities, local taxes and levies, part of national taxes and other revenues of local budgets shall be the material and financial basis for local self-governance.

Local self-governance shall be entitled to sufficient financial resources, which it can freely dispose of for exercising its powers, and which are distributed on the same terms in the manner prescribed by law.

The State shall ensure the correspondence of resources and the scope of powers of local self-governance envisaged by the Constitution and Laws of Ukraine.

Powers delegated to local self-governance shall be allocated with financial resources in full.

The change of local self-governance competence shall be made with simultaneous adequate changes in the distribution of financial resources.

The State shall reimburse expenditures of local self-governance arising from the decisions of state power bodies.

Communities shall have a right to cooperate for addressing issues of common interest, forming associations with other communities on a contractual basis in the manner prescribed by law and delegating them part of the powers to manage property and finances.

5. Rights and Powers of Local Self-governance

Article 143

Community directly or through local self-government of the community shall:

- 1) approve a statute of the community;
- 2) manage community-owned property;
- 3) approve a budget of the relevant community and control over its implementation;
- 4) approve a strategy for sustainable development, local development programs and control over their implementation;
- 5) make decisions on local taxes and levies;
- 6) organize and hold local referendums and ensure the implementation of their results;
- 7) establish, reorganize and liquidate community-owned enterprises, organizations and institutions, and also control over their activities;
- 8) resolve matters of a territorial structure of the community and management of these territories;
- 9) freely and lawfully resolve issues of local significance that are not withdrawn from the scope of its competence and the solution of which is not entrusted to any other body.

[Povit,] oblast community councils shall:

- 1) approve the relevant programs for sustainable territorial development and other programs and control over their implementation;
- 2) approve budgets formed, including from the state budget, and control over their implementation;
- 3) attract funds from local budgets on a contractual basis to implement joint projects and programs and control over their implementation;
- 4) manage communal property jointly owned by communities;
- 5) resolve other matters specified by law.

Article 145

The local self-governance rights shall be protected in court.

Article 146

Other matters of local self-governance organization, formation, activity and responsibility of local self-governments shall be determined by law.

6. Local Self-governance Acts, Legality Oversight

Article 144

Local self-governments lawfully adopt acts (regulations) that shall be binding on the respective territory.

At the request of the prefect, acts of local self-governments shall be challenged before court on the grounds of their noncompliance with the Constitution or Laws of Ukraine.

In case the Constitutional Court of Ukraine acknowledges an act of local self-government as violating the Constitution of Ukraine with respect to ensuring sovereignty and territorial integrity, the powers of such a body shall be early terminated in the manner prescribed by law.

The powers of local self-governments specified by paragraphs 1, 6, 8, 9, Part 1, Article 143 of this Constitution may be limited as established by law for the period while the Constitutional Court of Ukraine deliberates whether an act of local self-government violates the Constitution of Ukraine with respect to ensuring sovereignty and territorial integrity.

Article 106. The President of Ukraine shall:

15) suspend acts of the Cabinet of Ministers of Ukraine on the grounds of noncompliance with this Constitution, acts of local self-governments on the grounds of their noncompliance with this Constitution with respect to ensuring sovereignty and territorial integrity while concurrently challenging their constitutionality before the Constitutional Court of Ukraine.

Article 151. The Constitutional Court of Ukraine

At the request of the President of Ukraine, the Constitutional Court of Ukraine shall, within a month, provide an opinion on the compliance of an act of local self-government with the Constitution of Ukraine with respect to ensuring sovereignty and territorial integrity.

7. Executive Power at the Local Level

Article 118

Executive power in oblasts and povits, the cities of Kyiv and Sevastopol shall be exercised by territorial agencies of central executive bodies and prefects.

Please note: Political matter!

The prefect shall be appointed to and dismissed from the office by [Option 1: the President of Ukraine upon the submission of the Cabinet of Ministers of Ukraine; Option 2: the Cabinet of Ministers of Ukraine] in the manner prescribed by law.

The candidates shall be selected on a competitive basis.

The tenure of a prefect office in a povit, oblast, in the cities of Kyiv and Sevastopol may not exceed three years.

The prefect is a civil servant.

Please note: Political matter!

When executing his/her powers, the prefect shall report and subordinate to [Option 1: the President of Ukraine and the Cabinet of Ministers of Ukraine within the scope of their powers; Option 2: the Cabinet of Ministers of Ukraine].

Article 119

The prefect on a respective territory shall:

- 1) represent the President of Ukraine and the Cabinet of Ministers of Ukraine, inform them about the state of the government policy implementation;
- 2) direct and coordinate the activities of territorial agencies of central executive bodies and perform administrative oversight over their observance of the Constitution and Laws of Ukraine, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine;
- 3) ensure preliminary consultations of public authorities with local self-governments in the process of planning and decision-making on all issues related to local self-governance;
- 4) organize the interaction of territorial agencies of central executive bodies with local self-governments under conditions of martial law or state of emergency, environmental emergency;
- 5) perform administrative oversight over the compliance of acts of local self-governments with the Constitution and Laws of Ukraine in cases and the manner prescribed by law;
- 6) execute other supervisory and coordination powers specified by the law of Ukraine.

Administrative oversight measures should be well-proportioned and equitable.

Article 92. Laws of Ukraine shall exclusively specify:

- 12) organization and activity of executive bodies, status of a prefect, bases of civil service, service in local self-governments, organization of state statistics and informatics.

Article 116. The Cabinet of Ministers of Ukraine shall:

- 9) direct and coordinate the activities of ministries, other central executive bodies and prefects.

Article 120

Members of the Cabinet of Ministers of Ukraine and heads of central executive bodies and of their territorial agencies, prefects may not have a representative mandate, shall not be entitled to combine their office with other work (except for teaching, research, and creative activities outside of working hours), or to be members of a managing body or supervisory board of a for-profit enterprise or organization.

8. Transitional Provisions

16–2. Upon enactment of the Law of Ukraine “On Amending the Constitution of Ukraine” (as of decentralization of power):

- 1) One or several settlements (villages, towns, cities) with adjacent territories, and also territorial communities formed in the course of the administrative and territorial reform, shall obtain the status of a community based on and in the manner prescribed by law;
- 2) Within 60 days, a law determining the administrative and territorial structure shall be adopted;
- 3) The powers of village, town, city mayors and deputies of local councils elected before the enactment of the Law of Ukraine “On Amending the Constitution of Ukraine” (as of decentralization of power) shall be terminated from the date of entry into power of community heads, relevant community councils, [povit,] oblast community councils elected at regular local elections after the enactment of the law determining the administrative and territorial structure;
- 4) Upon the submission of the Cabinet of Ministers of Ukraine, the President of Ukraine shall appoint prefects for the first time after the formation of executive bodies by the relevant [povit,] oblast councils, but no later [date to be determined before registration of the Draft Law] in 2022;
- 5) Upon the submission of the Cabinet of Ministers of Ukraine, the President of Ukraine shall appoint and dismiss heads of local state administrations until the appointment of relevant prefects;
- 6) Local state administrations shall continue to exercise their powers within the relevant territory until the establishment of executive bodies by [povit,] oblast community councils according to the law on local self-governance that determines the powers of executive bodies of [povit,] oblast councils but no later than [date to be determined before registration of the Draft Law] in 2022.

This Law shall be enacted from the day following the day of its publication.