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Structural and fiscal determinants of state decentralization: a comparative legal study of Poland and Ukraine

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Decentralization of public authority represents one of the essential instruments for structuring the relationship between the state and its territorial communities. The configuration of decentralization reveals the constitutional maturity of a state, balancing unity and autonomy – a notion especially relevant in comparing Poland's established tradition and Ukraine's ongoing transformation.

The aim of this study is to examine the normative and fiscal dimensions of decentralization as a constitutive element of territorial legal personality, identifying how both systems operationalize the principles of subsidiarity, legality, and proportionality in the distribution of public power.

For the purposes of this study, decentralization is understood as a legal and institutional mechanism involving the transfer of competences, resources, and decision-making authority from central government to territorially organised public entities endowed with legal personality and a degree of institutional autonomy.

Methodologically, the article employs a combined dogmatic-legal and comparative approach. The dogmatic method is used to reconstruct the normative framework of decentralization within the constitutional and statutory systems of both states, while the comparative method enables the identification of structural similarities and differences between the Polish and Ukrainian models of territorial governance.

1. Subject and community: local government as a figure of the modern state

1.1. Guardians of local autonomy – in whose hands does Polish local power rest?

The reform of local government bodies in Poland represents one of the fundamental achievements of the administrative decentralization process, which was initiated in the late 1990s.

This transformation, based on the doctrine of administrative law and statutory norms, led to the establishment of a three-tier organizational model, within which local government units operate at the municipal, county, and regional levels. Each level has distinct competences and bodies responsible for both own and delegated tasks.

At the lowest level of the hierarchy of local government units operates the municipality, which plays a fundamental role in the administrative structure of the Republic of Poland. According to Article 163 of the Polish Constitution[1], municipal self-government carries out public tasks, the scope of which has not been reserved by law for the organs of other public authorities. This means that local government units, operating based on applicable legal norms, are obliged to undertake a series of actions aimed at addressing local social needs.

The legal foundation of municipal self-government in Poland is provided by the Act of 8 March 1990 on Municipal Self-Government[2] and Article 169(1) of the Constitution of the Republic of Poland[3].

Under these provisions, municipalities perform public tasks in their own name and under their own responsibility, exercising local regulatory and executive powers within the limits of the

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[1] Constitution of the Republic of Poland of April 2, 1997 (Journal of Laws No. 78, item 483, as amended).

[2] The Act of March 8, 1990 on Municipal Self-Government (consolidated text, Journal of Laws of 2024, item 1465, as amended).

[3] More broadly see: Article 11a of the Act of March 8, 1990 on Municipal Self-Government, which specifies the competences of the municipal council.

law. This framework guarantees the legal and financial autonomy of municipalities, enabling them to make decisions responsive to local needs and adaptive to changing socio-economic conditions.

The structure of municipal governance in Poland is based on a two-tier model, in which the municipal council (*rada gminy* or *rada miasta*) functions as the representative and supervisory body, while the executive authority is vested in the mayor (*wójt*, *burmistrz*, or *prezydent miasta*), who is directly elected by the local community. This arrangement is formally grounded in the constitutional principle of decentralization of public authority, which constitutes one of the foundations of Poland's territorial system. In practice, however, the scope of local autonomy and self-governance is constrained by state supervision over local government activities and by the strong position of the executive within the local power structure. The council determines strategic directions of development, adopts the municipal budget[4], and exercises supervisory powers over executive and auxiliary bodies through the activities of the audit committee (Article 18a(1) of the Act on Municipal Self-Government). The executive authority manages day-to-day municipal affairs, implements council resolutions, and oversees the municipality's financial management.

Pursuant to Article 166 of the Constitution and the Municipal Self-Government Act, municipal tasks are divided into own and delegated ones – the former addressing local needs, the latter performed on behalf of the state[5]. This division, supported by constitutionally guaranteed financial autonomy[6] and state budget transfers in the form of grants and subsidies, enables municipalities to fulfil public responsibilities effectively while maintaining accountability within the national system of public administration.

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[4] More broadly see: Article 18 of the Act of March 8, 1990 on Municipal Self-Government, which defines the competences of the municipal council.

[5] D. Kuźnicka-Błaszkowska, *Zadania własne i zlecone samorządu gminnego wobec regulacji konstytucyjnoprawnych*, "Finanse Komunalne" 2022, No. 3, pp. 7–18.

[6] B. Jaworski, *Pozycja ustrojowoprawna samorządu gminnego w systemie administracji publicznej*. "Studia Iuridica" 2020, No. 85, pp. 140–156, https://doi.org/10.31338/2544-3135.si.2020-85.10.

According to Article 8, paragraph 2 of the Act of June 5, 1998, on County Self-Government[7], the authorities of a county are the county council and the county board. The county council functions as both a legislative and supervisory body, meaning that its competencies include not only the enactment of local legal acts but also the oversight of the executive body's activities. In terms of task execution, the county board is subject exclusively to the county council[8], as stipulated by the hierarchical organizational structure of county self-government and the principle of the autonomy of local government units. This means that the county board exercises its competencies within the boundaries of the law and in accordance with the policy set by the county council, which exercises oversight and control over it. The subordination of the county board solely to the county council excludes interference by other authorities in its activities, except in cases specified by law, such as supervision by the voivode or the regional audit chamber in terms of the legality of the county authorities' actions.

The executive body of the county is the county board, headed by the *starosta*. This board is a collegial body, meaning that decisions are made collectively, and its members bear joint responsibility for the actions taken. The *starosta*, as the chairman of the county board, not only directs its work but also represents the county externally and is responsible for the ongoing implementation of administrative tasks[9].

The body of the county, in accordance with the provisions of the law, is the county board as a whole, rather than the individual members comprising it. This stems from the collegial nature of the body and the principles of its functioning outlined in the Act on County Self-Government.

The County Council plays a crucial role in shaping the legal order at the local level and in overseeing the activities of the County

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[7] Act of June 5, 1998 on County Self-Government (consolidated text, Journal of Laws of 2024, item 107, as amended).

[8] J. Stelmasiak, L. Bielecki, *2. Organy powiatu*, in: *Jawność w samorządzie terytorialnym*, B. Dolnicki (ed.), Warszawa 2015, pp. 44–51.

[9] More broadly see: M. Sienkiewicz, *Samorząd powiatowy w Polsce: założenia i realizacja*, Lublin 2011, pp. 299–302.

Board. This mechanism constitutes a vital element of the system of mutual balance and control (checks and balances[10]) within the structure of the county self-government, ensuring that the actions of the executive bodies are in compliance with the prevailing legal order and the interests of the local community.

Pursuant to Article 16(1) of the Act of 5 June 1998 on County Self-Government, the county council exercises control over the activities of the county board and the county's organizational units, performing this task, inter alia, through the auditing committee. This body, operating within the council's structure, is vested with supervisory powers aimed at ensuring the legality, accuracy, and appropriateness of the actions undertaken by the county's executive bodies.

At the highest level of local government administration, i.e., at the regional level, the functioning of local government structures is based on the provisions of the Act of 5 June 1998 on the Self-Government of Voivodeships[11]. In accordance with Article 15 of the aforementioned Act, the legislative and supervisory body at the regional level is the regional assembly (*sejmik województwa*)[12], which plays a key role in shaping regional development policy by adopting strategies and plans of strategic importance for the entire voivodeship. As a collegiate body, the regional assembly is responsible for making decisions regarding the directions of socio-economic development, allocation of financial resources, and the adoption of general local legislation.

The executive body of the voivodeship is the regional board (*zarząd województwa*), chaired by the marshal of the voivodeship. The regional board is responsible for implementing the voivodeship's policy in the areas of budget management, executing devel-

[10] Redakcja IbnDiPP. (2023, 12 października). *Checks & Balances – kontrola i równowaga*, ngo.pl., https://publicystyka.ngo.pl/checks-balances-kontrola-i-rownowaga (access: 1 April 2025).

[11] The Act of June 5, 1998 on Voivodeship Self-Government (consolidated text, Journal of Laws of 2024, item 566, as amended).

[12] B. Dolnicki in: J. Bryła, R. Cybulska, J. Glumińska-Pawlic, J. Jagoda, R. Marchaj, C. Martysz, A. Wierzbica, B. Dolnicki, *Samorząd województwa. Komentarz*, Warszawa 2023, art. 16.

opment programs, and implementing strategies adopted by the regional assembly. Furthermore, the board plays a crucial role in the process of absorbing European Union structural funds and coordinating projects aimed at reducing development disparities within the region.

The Polish system of local government is structurally grounded in the constitutional principles of decentralization and local autonomy. Organized within a three-tier administrative framework – commune, county, and voivodeship – it operationalizes the distribution of public authority through the allocation of distinct competences exercised autonomously within statutory limits. The institutional dualism of representative–executive bodies ensures both democratic accountability and administrative efficiency, while supervisory mechanisms vested in the voivode and regional chambers of audit safeguard legality and fiscal discipline.

As a practical embodiment of the principle of subsidiarity, local government constitutes a core component of Poland's democratic governance and the rule of law. Its continued evolution depends on strengthening fiscal self-sufficiency, ensuring proportional oversight, and maintaining a functional equilibrium between central and local authorities. The durability of decentralization, in turn, remains a decisive measure of the constitutional maturity and systemic stability of the state.

1.2. Reform of the territorial organisation of public power in Ukraine

In order to adequately capture the systemic features of decentralization in Ukraine, it is necessary to reconstruct the institutional architecture of local self-government within its constitutional and statutory framework. The Ukrainian model is based on the recognition of territorial communities (*hromadas*) as the fundamental units of local democracy, exercising public authority through elected councils and executive bodies. The ongoing decentralization reform has significantly strengthened the functional capacity of these communities, while simultaneously redefining the relationship between local self-government and territorial state administration.

Structurally, the Ukrainian system of territorial governance operates on three interconnected levels: the basic level of territorial communities (*hromadas*), the subregional level of districts (*rayons*), and the regional level of oblasts. At the level of territorial communities, representative authority is exercised by elected local councils, while executive competences are performed by executive committees headed by heads. At the district and regional levels, representative bodies coexist with local state administrations, which function as territorial organs of the central government responsible for ensuring the legality of local governance and coordinating the implementation of national policies.

The key factor for the transition of local self-government to a new level in Ukraine was the amalgamation of territorial communities. This involves replacing the post-Soviet administrative-command system of governance with a democratic system in which both the central government and the community participate in governing the state. The current decentralization reform has significantly strengthened the functional capacity of these communities, while rethinking the relationship between local self-government and territorial state administration.

The constitutional foundations of decentralization in Ukraine are primarily established in Articles 140–146 of the Constitution of Ukraine, which recognize territorial communities as the primary subjects of local self-government and guarantee their right to independently resolve issues of local importance within the limits defined by the Constitution and laws.

From a dogmatic perspective, these constitutional provisions establish a dual structure of territorial governance, combining elements of decentralized self-government with mechanisms of state supervision. This institutional arrangement reflects the constitutional attempt to reconcile the principle of local autonomy with the imperative of maintaining the integrity and coherence of the state administration.

Currently, the main focus of reforms in this area is the restructuring of local state administrations (LSAs) into prefectural bodies. According to the new competence, their main powers should include ensuring law and order, observing the rights and freedoms of citizens, implementing state and regional programs, coordinating the activities of territorial bodies of central executive bodies and exercising administrative supervision over the legality of the acts of local authorities.

An important area for reform is establishing an effective mechanism to control the activities of local self-government bodies. For a long time, these bodies were not controlled by specially designated state authorities, and the control function was actually entrusted to the territorial community itself[13]. Although public control is an effective mechanism, it is not widespread due to a lack of legal regulation and public awareness[14]. However, such changes can be fully implemented after the adoption of relevant amendments to the Constitution of Ukraine[15][16], which is currently impossible due to the state of martial law in the country.

Ukraine, confirming its commitment to European development, even in wartime, despite certain constitutional restrictions imposed by the current situation, continues to implement reforms on the path to European integration. So, an alternative solution to this problem in the current circumstances was the adoption of a new Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding Ensuring Legality and Transparency in the Activities of Local Self-Government Bodies" dated November 5, 2025, No. 4677-IX. The law is intended to establish an effective system for ensuring the legality of local government acts in

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[13] O. Lialiuk, I. Petrenko, *Zarubizhnyi dosvid zaprovadzhennia instytutu prefekta ta yoho znachennia dlia Ukrainy*, "Problemy zakonnosti" 2020, No. 148, pp. 26–35, https://doi.org/10.21564/2414-990x.148.189074.

[14] Ye. Minakova, *Kontseptsiia instytutu prefekta yak subiekta derzhavnoho kontroliu za diialnistiu orhaniv mistsevoho samovriaduvannia v Ukraini*, "Analitychno-porivnialne pravoznavstvo" 2023, No. 3, pp. 27–32, http://dx.doi.org/10.24144/2788-6018.2023.03.4.

[15] Draft Law on Amendments to the Constitution of Ukraine (regarding decentralization of power), registration No. 2217a of 1 July 2015, http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55812 (access: 1 April 2025).

[16] T. Linько, *Konstytutsiine pravo krainy: pidruchnyk*, Kharkiv 2024, pp. 288–290.

Ukraine, for which purpose the law provides for the following mechanism for ensuring legality:

- for acts of oblast councils – by the central executive body designated by the Cabinet of Ministers of Ukraine;
- for acts of rayon councils – oblast state administrations
- for acts of village, settlement, city, and rayon councils in the city (if established) and their executive bodies – district state administrations[17].

The introduction of the prefectural model of territorial supervision, provided for in several proposals for constitutional reform, has not yet been fully implemented in the Ukrainian legal system. However, Ukraine has already managed to introduce a supervisory function over the activities of local self-government bodies, which has been entrusted to local state administrations acting as territorial representatives of the central government. The completion of constitutional reform will subsequently involve the transfer of this function to prefects.

Nevertheless, it should be emphasized, that several institutional solutions discussed in the context of Ukrainian decentralization remain at the stage of legislative proposals or constitutional debate. Consequently, a distinction must be made between the currently binding legal framework and the reform-oriented concepts aimed at further deepening the decentralization process.

Therefore, the following tasks still need to be addressed: the distribution of powers between local self-government bodies and EMBs, including the powers of territorial bodies of central EMBs and their subdivisions, taking into account the principle of subsidiarity and the new territorial basis; the creation of favorable legal conditions for involving residents of territorial communities in local decision-making and the development of forms of local democracy; the creation and administration of the Unified State Register of Acts of Local Self-Government; the creation and

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[17] On Amendments to Certain Legislative Acts of Ukraine Regarding Ensuring Legality and Transparency in the Activities of Local Self-Government Bodies: Law of Ukraine of 5 November 2025 No. 4677-IX, https://zakon.rada.gov.ua/laws/show/4677-%D0%86%D0%A5#Text (access: 14 May 2025).

administration of the State Register of Powers of Local Self-Government.

Therefore, Ukrainian decentralization reform should be interpreted not only as a political program, but primarily as a gradual, purposeful, and consistent process of constitutionalizing local self-government (taking into account the mechanisms of democracy in public administration, the doctrine of the rule of law and the delegation of government powers), the key objective of which is to comply with European standards of good governance.

2. Fiscal autonomy and the unity of the state – on the balance of competences in a decentralized model

2.1. Fiscal decentralization in Poland. A struggle for balance between central and local authorities

Fiscal decentralization in Poland is a complex process shaping relations between the state and local governments since 1989, grounded in constitutional guarantees of autonomy and financial independence.

At the outset, it must be emphasized that fiscal decentralization is not a mere technocratic operation, but rather a complex and multi-dimensional process with far-reaching social, economic, and political implications. It cannot be regarded as an arbitrary administrative act implemented in isolation from its historical, cultural, or economic context. Introducing decentralization at an inopportune moment or in an ill-conceived manner risks consequences akin to entrusting a ten-year-old child with the management of a household budget – where the absence of experience, oversight mechanisms, and adequate preparation may result in disorder, fiscal imbalance, and systemic destabilization. As Rémy Prud'homme aptly observes: "Decentralization measures are like some potent drugs, however: when prescribed for the relevant illness, at the appropriate moment and in the correct dose, they can have the desired salutary effect; but in the wrong circumstances, they can harm rather than heal"[18].

Fiscal decentralization should therefore be analyzed as a structural element of the public finance system, requiring a coherent allocation of competences, stable revenue sources, and effective accountability mechanisms ensuring the responsible management of public funds at the local level.

In Poland, fiscal decentralization must be situated within the broader framework of the post-1989 systemic transformation. The legal basis for this process is firmly embedded in the constitutional principles of local government autonomy, as established by the Constitution of the Republic of Poland of 1997. These principles – particularly the legal personality of local government units, their entitlement to perform public tasks in their own name and under their own responsibility, and the guarantees of financial independence – form the normative foundation for the decentralisation of public finances. Fiscal decentralization is thereby not merely an element of administrative reform, but a constitutional imperative, reflecting the axiological commitment of the Polish legal order to the principle of subsidiarity and to the decentralised exercise of public power.

Equally significant are the statutory instruments governing the financial framework of local government units, notably the Act on Local Government Revenues of 2024[19], the Public Finance Act of 2009[20], as well as the respective statutes regulating the municipal[21], county[22], and regional levels of self-government[23].

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[18] R. Prud'Homme, *The Dangers of Decentralization*, "The World Bank Research Observer" 1995, No. 10(2), p. 201.

[19] The Act of 1 October 2024 on the Revenues of Local Government Units (Journal of Laws, item 1572, as amended).

[20] The Act of 27 August 2009 on Public Finances (consolidated text, Journal of Laws of 2024, item 1530, as amended).

[21] The Act of March 8, 1990 on Municipal Self-Government (consolidated text, Journal of Laws of 2024, item 1465, as amended).

[22] The Act of 5 June 1998 on District Self-Government (consolidated text, Journal of Laws of 2024, item 107, as amended).

[23] The Act of June 5, 1998 on Voivodeship Self-Government (consolidated text, Journal of Laws of 2024, item 566, as amended).

These legislative acts delineate the catalogue of own-source revenues of local government units, establish the principles of their redistribution, define the subvention and grant mechanisms, and structure the financial relations between local budgets and the state budget

The revenue sources of local government units (LGUs) in Poland are multilayered, reflecting both a normative aspiration towards financial autonomy and an inherent dependence on central government transfers. LGUs derive their income from local taxes and charges, shares in personal and corporate income tax (PIT[24] and CIT[25]), general subventions, and earmarked grants. Particular attention should be paid to the growing role of European Union funds in the investment strategies of local governments[26] – an instrument that, while enhancing local development capacities, simultaneously introduces systemic risks stemming from the cyclical nature of EU programming periods and the ensuing challenges in ensuring continuity of financing for local development policies.

The Polish model of fiscal decentralization is characterized by a moderate level of revenue autonomy for local government units (LGUs) when compared to systems operating in Western European countries. Nevertheless, it surpasses, in institutional terms, the arrangements adopted in many Central and Eastern European states, including Ukraine[27]. In Poland, LGUs enjoy a relatively broader scope of competences and functionality in the field of local tax and fee administration than their Ukrainian counterparts. On the other hand, a persistently high degree of centralization of tax revenues – particularly in relation to corporate income tax (CIT) –

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[24] The Act of 26 July 1991 on Personal Income Tax (consolidated text, Journal of Laws of 2025, item 163, as amended).

[25] The Act of 15 February 1992 on Corporate Income Tax (consolidated text, Journal of Laws of 2025, item 278, as amended).

[26] More broadly see: M. Dworakowska, *Dochody budżetowe jednostek samorządu terytorialnego z perspektywy absorpcji funduszy unijnych*, "Optimum. Economic Studies" 2018, No. 93(3), pp. 51–62, https://doi.org/10.15290/oes.2018.03.93.05.

[27] P. Kornieiev, O. Terekh, *Architektura kontrolnych organów podatkowych Ukrainy*, "Studia Iuridica Toruniensia" 2024, No. 34(1), pp. 25–54, https://doi.org/10.12775/SIT.2024.002.

continues to constrain the effective capacity of many LGUs to shape autonomous fiscal policy.

Despite the formally advanced legislative framework, the process of fiscal decentralization in Poland continues to face a range of structural and functional constraints. One of the principal challenges lies in the persistently low share of own-source revenues within the budgetary structure of many local government units (LGUs), which renders their financial autonomy largely illusory. In practice, a significant proportion of local budgets is financed through transfers from the state budget, over which LGUs exert limited control – both in terms of the amounts allocated and the permissible scope of their use, particularly with respect to earmarked grants[28].

Another significant challenge lies in the considerable disparities in fiscal capacity among local government units (LGUs), particularly between urban and rural entities, as well as across regions characterised by varying levels of socio-economic development. These asymmetries result in de facto unequal access to public services and divergent capacities to perform constitutionally or statutorily assigned tasks. What remains notably absent is the existence of effective, durable, and predictable redistributive mechanisms capable of mitigating these inequalities in a structurally sustainable manner.

Equally important for the functioning of the local government finance system is the high degree of instability in the legislative and political environment. Frequent and often uncoordinated changes in regulations related to public finances – particularly concerning the system of subsidies, compensatory mechanisms that offset revenue losses for local government units (such as those arising from tax reforms in the area of personal income tax), and the rules governing the design and implementation of multi-year financial plans – result in a significant reduction in the budgetary predictability of local government units. This type of normative volatility presents a substantial obstacle to the rational process of financial

[28] B. Guziejewska, *Decentralizacja fiskalna – dobre praktyki a doświadczenia polskie,* "Studia Ekonomiczne" 2016, No. 273, pp. 109–118.

planning, limiting the ability of local governments to effectively implement long-term investment strategies and to pursue a balanced and responsible budgetary policy.

Additionally, some amendments to regulations are introduced in an expedited procedure, without an adequate period of *vacatio legis* or with its minimization, resulting in insufficient time for local government administrative structures to adapt to the new legal conditions. Such legislative practices undermine the principle of legal certainty and pose a threat to the stability of the public finance system at the local level.

In light of the aforementioned challenges, it becomes crucial to develop and implement a financing system for local government units that is characterized by greater stability, transparency, and fairness. Only such a system can effectively strengthen the autonomy of local governments while simultaneously increasing their accountability for the management of public funds. The transparency of financial mechanisms, based on objective and predictable principles of redistribution, will serve as the foundation for achieving long-term developmental objectives. Furthermore, effective modeling of fiscal policy at the local level will enable more efficient adjustment of public service provision to the diverse socio-economic needs of individual regions, which, in turn, will contribute to the improvement of citizens' quality of life and the strengthening of social cohesion across the country.

2.2. Fiscal decentralization in Ukraine

According to the European Charter of Local Self-Government, local self-government is "the right and capacity of local authorities [...] to regulate and manage a substantial part of public affairs within their competence, in the interests of the local population". The goal of the LS reform is, first of all, to ensure its ability to solve local issues independently, at the expense of its own resources. The focus is on allocating additional resources to territorial communities and on mobilising their internal reserves.

As a rule, a political phenomenon such as "decentralization" often takes on a financial dimension (hence the term "fiscal decentralization") when changes in the system of intergovernmental fiscal relations take place[29]. Fiscal decentralization, or the empowerment of "sub-central governments" to both raise and spend fiscal resources, is generally viewed positively, as "sub-central governments" are better informed about local conditions and can adapt policies more easily to meet community needs[30].

Annalisa Fedelino's view that fiscal decentralization implies a review of the roles and responsibilities of different levels of government in fiscal policy is worth considering[31]. American economist Charles M. Tiebout points out that fiscal decentralization simultaneously increases competition between local authorities, ensuring their efficiency[32].

Thus, fiscal decentralization involves distributing functions, financial resources, and responsibility for their use among central and local government levels[33].

Fiscal decentralization in Ukraine constitutes a central component of the broader decentralization reform initiated in 2014. Its legal foundations are primarily defined in the Budget Code and the Tax Code of Ukraine, which regulate the system of local revenues, intergovernmental transfers, and equalisation mechanisms aimed at reducing territorial disparities in fiscal capacity.

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[29] A. Fedelino, T. Ter-Minassian, *Making Fiscal Decentralization Work: Cross-Country Experiences*, Washington D.C. 2010, p. 12, https://doi.org/10.5089/9781589069855.084.

[30] I. Lago, *Handbook on Decentralization, Devolution and the State*, Cheltenham–Northampton 2021, p. 165, http://dx.doi.org/10.4337/9781839103285.

[31] A. Fedelino, *Fiscal Decentralization: Key Issues. A Brief Literature Review*, in: *Making Fiscal Decentralization Work: A Cross-Country Analysis*, International Monetary Fund, Washington D.C. 2010, pp. 3–9.

[32] T.M. Tiebout, *An Economic Theory of Fiscal Decentralization*, in: *Public Finances: Needs, Sources, and Utilization*, J.M. Buchanan (ed.), Princeton 1961, pp. 79–96.

[33] O. Klymenko, *Finansova detsentralizatsiia yak osnova rozvytku mistsevoho samovriaduvannia*, "Vcheni zapysky TNU imeni V. I. Vernadskoho. Seriia: Derzhavne upravlinnia" 2018, Vol. 29, No. 5, p. 104.

Thus, according to the Concept of Reforming Local Self-Government and Territorial Organization of Power in Ukraine[34] and its Action Plan, the Budget and Tax Codes of Ukraine were amended to implement the first stage of fiscal decentralization. These changes transferred additional budgetary powers to local governments and secured stable sources of revenue for their implementation. This actually encouraged communities to amalgamate and increase their capacity by transitioning ATC budgets to direct interbudgetary relations with the state budget[35].

The budgetary capacity of the community is crucial for its effective functioning. This capacity refers to the community's ability to implement basic local government powers using community budget revenues. In a broad sense, the financial capacity of the community implies its ability to solve a wide range of social and economic problems[36].

An ATC's resource potential is characterized by its available resources, the most important of which are territorial, spatial, land, and financial. The capacity of ATCs is largely determined by how efficiently they use these resources, which constitute their resource potential. This potential is a source and means of reproduction and plays a key role in determining the functions, direction, and dynamics of development[37].

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[34] Concept of Reforming Local Self-Government and Territorial Organization of Power in Ukraine, Resolution of the Cabinet of Ministers of Ukraine of 1 April 2014 No. 333-p, https://zakon.rada.gov.ua/laws/show/333-2014-%D1%80#Text (access: 7 May 2025).

[35] M. Pitsyk, O. Slobozhan, Ya. Raboshuk, O. Chepel, *Formuvannia spromozhnykh terytorialnykh hromad: praktychnyi posibnyk*, Kyiv 2016, p. 3.

[36] S. Sember, O. Chubar, K. Mashiko, *Teoretychni pidkhody do vyznachennia sutnosti finansovoi spromozhnosti ta finansovykh resursiv terytorialnoi hromady*, "Rehionalna ekonomika" 2015, No. 3, p. 87.

[37] H.A. Borshch, V.M. Vakulenko, N.M. Hrynchuk, Yu.F. Dekhtiarenko, O.S. Ihnatenko, V.S. Kuibida, A.F. Tkachuk, V.V. Yuzefovych, *Resursne zabezpechennia obiednanoi terytorialnoi hromady ta yii marketynh: navchalnyi posibnyk*, Kyiv 2017, p. 7.

It is important that the legislator has provided communities unable to exercise certain powers independently with the possibility to cooperate with others[38].

The introduction of a new budget regulation mechanism has changed the total balancing system of all local budgets to a horizontal equalization system based on tax capacity and revenues per capita. A significant portion of budget funds remains under the full control of local authorities. The reform of intergovernmental fiscal relations encourages territorial communities to efficiently fill their budgets, become self-sufficient, and plan their expenditures economically. Local authorities decide how to spend budget funds, which is especially important for the development of ATCs[39].

The community budget is funded by several sources. These include national taxes such as personal and corporate income taxes, excise taxes, and fees for the use of natural resources. Additionally, local authorities collect their own taxes and fees (e.g., tourist tax, parking fees, etc.)[40].

Another group of revenues is non-tax (e.g., payments for administrative services, fines, profits of utility companies, etc.). Communities can also receive funds from state or local budgets, which are known as intergovernmental transfers. However, the situation in the budget system, particularly at the local level, was significantly affected by the full-scale invasion. To ensure economic conditions for businesses, the government introduced tax breaks that local authorities had to adapt to and increased subsidies. Thus, in 2021, a reverse subsidy was transferred to the budget of 15%, and in 2023 – 14%; if in 2021 there were 11% of unsubsidized com-

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[38] On Cooperation of Territorial Communities, Law of Ukraine of 17 June 2014 No. 1508-VII, https://zakon.rada.gov.ua/laws/show/1508-18#top (access: 13 May 2025).

[39] N.V. Vasylieva, N.M. Hrynchuk, T.M. Derun, V.S. Kuibida, A.F. Tkachuk, *Mistsevyi biudzhet i finansove zabezpechennia obiednanoi terytorialnoi hromady*, Kyiv 2017, p. 5.

[40] Article 64 of the Budget Code of Ukraine of 8 July 2010 No. 2456VI, https://zakon.rada.gov.ua/laws/show/2456-17#Text (access: 14 May 2025).

munities, in 2023 there were 2% of them; and 84% (2023) received a basic subsidy compared to 75% (in 2021)[41].

However, the decentralization reform has shown real results in the economic strength of communities and their ability to quickly adapt to the situation. Communities where no hostilities took place were able to receive internally displaced persons with dignity, provide them with infrastructure and provide public services at the proper level. Communities that have faced armed aggression have been able to withstand it. They have provided necessary assistance to territorial defense forces and the Armed Forces of Ukraine. They have also ensured a decent standard of living for their residents[42].

3. Comparative analysis between the Polish and Ukrainian local government systems

When analyzed comparatively, the Polish and Ukrainian models illustrate two different stages of decentralization. While Poland represents a constitutionally stabilized model of local self-government, Ukraine continues to develop its decentralization framework within a dynamic reform process aimed at strengthening the autonomy and financial capacity of territorial communities.

In the context of a comparative analysis of local self-government models in Ukraine and Poland, the fundamental idea of the European Union – which sounds like *In varietate Concordia* – is more relevant than ever. Although both countries have their own specific features in terms of the organization and implementation of local self-government, like other EU member states, they are all united by the European strategy of good governance at the local level. This strategy serves as an impetus for further development.

A comparative perspective reveals both structural similarities and fundamental differences between the Polish and Ukrainian

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[41] https://www.chesno.org/post/5880/ (access: 14 May 2025).

[42] Yu. Holynskyi, V. Nuriieva, *Finansova spromozhnist hromad pid chas povnomasshtabnoi viiny*, "Ekonomika ta suspilstvo" 2023, No. 55, http://dx.doi.org/10.32782/2524-0072/2023-55-41.

decentralization models. In both states, decentralization serves as a mechanism for strengthening democratic participation and improving the efficiency of public administration. However, the Polish model is characterized by a higher degree of constitutional stabilization, whereas the Ukrainian system remains embedded in an ongoing process of institutional transformation.

4. Conclusion

The conducted analysis demonstrates that decentralization constitutes not merely an administrative reform but a structural principle shaping the constitutional architecture of modern democratic states. Both the Polish and Ukrainian experiences illustrate that the effectiveness of decentralization depends on the coherence between institutional autonomy, fiscal capacity, and legal guarantees protecting the independence of local authorities.

The comparative analysis undertaken in this study conceptualizes decentralization as both a structural category of public administration and a constitutional principle indicative of democratic maturity. By examining the Polish and Ukrainian experiences, the research elucidates the relationship between institutional autonomy, fiscal responsibility, and the rule of law, demonstrating that effective decentralisation requires not only normative guarantees but also the internalisation of the principle of subsidiarity within constitutional culture and governance practice.

In Poland, decentralization has achieved a high degree of normative stability and institutional consolidation. The constitutionally enshrined three-tier model of local self-government ensures a functional balance between representative and executive authorities. Nonetheless, persistent fiscal centralization and regulatory volatility continue to constrain the real autonomy of local government units. The sustainability of this model thus depends upon the reinforcement of fiscal predictability and the safeguarding of local self-government from tendencies toward recentralization.

The Ukrainian experience also offers relevant insights for the Polish system of local self-government. In particular, the mobilization capacity of Ukrainian territorial communities during periods of crisis demonstrates the importance of strengthening mechanisms that enhance the operational flexibility and crisis-management capabilities of local authorities. For Poland, this may justify further institutional development of participatory governance mechanisms and greater fiscal flexibility enabling local governments to respond effectively to extraordinary circumstances.

In contrast, decentralization in Ukraine remains an evolving and constitutionally unfinished process. The amalgamation of territorial communities and fiscal reforms have enhanced local governance capacity, yet the absence of entrenched constitutional guarantees, fragile fiscal independence, and limited supervisory mechanisms hinder the establishment of a mature, self-sustaining decentralized order. Thus, the Ukrainian example illustrates that decentralization (as the basis of the administrative-territorial structure) in the absence of constitutional details functions as a reform initiative rather than a systemic principle.

The study concludes that decentralisation's viability depends on institutional coherence, fiscal equilibrium, and normative predictability. *De lege ferenda*, it advocates strengthening anti-recentralization and fiscal stability mechanisms in Poland and completing the constitutional entrenchment of self-government in Ukraine.

From a comparative perspective, the Polish decentralization model provides several normative reference points for the further development of Ukrainian territorial governance. In particular, the constitutional entrenchment of a multi-level system of local self-government, the clear distinction between own and delegated tasks, and the establishment of stable and constitutionally protected sources of local revenue could significantly enhance the institutional resilience of Ukrainian territorial communities.

Therefore, the future development of decentralization should focus on three fundamental dimensions: strengthening constitutional guarantees of local autonomy, ensuring adequate fiscal resources corresponding to the scope of local competences, and establishing transparent supervisory mechanisms balancing decentralisation with the unity of the state.

SUMMARY

Structural and fiscal determinants of state decentralization: a comparative legal study of Poland and Ukraine

The article conducts a comparative legal analysis of decentralization in Poland and Ukraine as a constitutive element of territorial legal personality and a measure of constitutional maturity. Using the dogmatic–legal and systemic methods, it examines constitutional, institutional, and fiscal frameworks through the lens of subsidiarity. The Polish model demonstrates normative stability yet remains constrained by fiscal centralisation and structural disparities, while the Ukrainian model is transitional, marked by legislative dynamism but lacking lasting guarantees of autonomy. Effective decentralization depends on institutional coherence, fiscal equilibrium, and predictable vertical relations. *De lege ferenda*, the study advocates reinforcing anti-recentralisation mechanisms and fiscal stability in Poland, and full constitutionalization of local self-government in Ukraine in line with subsidiarity, proportionality, and legality.

Keywords: decentralization; local self-government; fiscal autonomy; constitutional reforms; Poland–Ukraine comparative study

STRESZCZENIE

Strukturalne i fiskalne determinanty decentralizacji państwa: studium prawnoporównawcze Polski i Ukrainy

Artykuł przedstawia prawnoporównawczą analizę decentralizacji w Polsce i na Ukrainie jako konstytutywnego elementu podmiotowości terytorialnej oraz miernika dojrzałości konstytucyjnej państwa. Z wykorzystaniem metod dogmatycznoprawnej i systemowej dokonano analizy konstytucyjnych, instytucjonalnych i fiskalnych ram decentralizacji w świetle zasady subsydiarności. Model polski charakteryzuje się stabilnością normatywną, ograniczaną jednak przez centralizację fiskalną i strukturalne dysproporcje, natomiast model ukraiński ma charakter tranzycyjny – dynamiczny legislacyjnie, lecz pozbawiony trwałych gwarancji autonomii. Skuteczność

decentralizacji zależy od spójności instytucjonalnej, równowagi fiskalnej i przewidywalności relacji wertykalnych w strukturze władzy publicznej. *De lege ferenda* postulowane jest wzmocnienie w Polsce mechanizmów antyrecentralizacyjnych i stabilności finansowej, a na Ukrainie – pełna konstytucjonalizacja samorządu terytorialnego zgodnie z zasadami subsydiarności, proporcjonalności i legalizmu.

Słowa kluczowe: decentralizacja; samorząd terytorialny; autonomia fiskalna; reformy konstytucyjne; analiza porównawcza Polska–Ukraina

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