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Volodymyr Shatilo / Mykola Marchuk
Tetyana Gudz / Serhii Kudin / Ruslana Yarova



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Volodymyr Shatilo^{*}

National Transport University (Kyiv, Ukraine)

Mykola Marchuk^{**}

Kharkiv National University of Internal Affairs (Kharkiv, Ukraine)

Tetyana Gudz^{***}

Kharkiv National University of Internal Affairs (Kharkiv, Ukraine)

Serhii Kudin^{****}

University of the State Fiscal Service of Ukraine (Irpın, Ukraine)

Ruslana Yarova^{*****}

National Transport University (Kyiv, Ukraine)

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Abstract

The historical principles of the constitutional and legal reform of the administrative and territorial organization in Ukraine and the Republic of Poland are studied, analyzing the constitutional legislation of both countries, the implementation of the reforms, and the existing scientific approaches. The possibilities of applying the Polish experience of constitutional modelling of the territorial organization in Ukraine are determined. Attention is paid to the main directions of reform the system of administrative and territorial organization in Ukraine and Poland at different stages of their historical development. It is noted that each period of reform to the administrative and territorial organization of these states is characterized by a different attitude towards local self-government. This allowed to outline the models of the system of administrative and territorial organization in Ukraine and Poland and to clarify their common and specific features.

Keywords: reforming, territorial organization, administrative and territorial unit, models of systems of administrative and territorial organization, centralization, decentralization.

^{*} Doctor of Juridical Science, Professor, Department of Constitutional and Administrative Law, Faculty of Economics and Law, National Transport University, Kyiv, Ukraine. ORCID: <https://000-0003-3274-4744>. E-mail: vash13@ukr.net.

^{**} Doctor of Juridical Science, Professor, Department of Constitutional and International Law, Faculty no 4, Kharkiv National University of Internal Affairs, Kharkiv, Ukraine. ORCID: <https://orcid.org/0000-0002-0217-478X>. E-mail: marchuk_m_i@ukr.net

^{***} Candidate of Sciences (Law), Associate Professor, Department of Constitutional and International Law, Faculty no 4, Kharkiv National University of Internal Affairs, Kharkiv, Ukraine. ORCID: <https://orcid.org/0000-0002-6950-6136>. E-mail: tetyana1522@ukr.net

^{****} Doctor of Juridical Science, Associate Professor, Department of Theory, History of Law and State, and Constitutional Law, Faculty of Law, University of the State Fiscal Service of Ukraine, Irpın, Ukraine. ORCID: <https://0000-0003-1396-3212>. E-mail: kydin@i.ua.

^{*****} Candidate of Sciences (Law), Associate Professor, Department of Constitutional and Administrative Law, Faculty of Economics and Law, National Transport University, Kyiv, Ukraine. ORCID: <https://0000-0001-5525-1059>. E-mail: yarovaruslana@ukr.net

La reforma al sistema de organización administrativa y territorial en Ucrania y la República de Polonia

Volodymyr Shatilo

National Transport University (Kyiv, Ukraine)

Mykola Marchuk

Kharkiv National University of Internal Affairs (Kharkiv, Ukraine)

Tetyana Gudz

Kharkiv National University of Internal Affairs (Kharkiv, Ukraine)

Serhii Kudin

University of the State Fiscal Service of Ukraine (Irpin, Ukraine)

Ruslana Yarova

National Transport University (Kyiv, Ukraine)

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Resumen

En el artículo se analizan los principios históricos de las reformas constitucionales y legales al sistema de organización administrativa y territorial de la República de Polonia y Ucrania, así como su implementación y los enfoques científicos existentes. Se estudian las posibilidades de aplicar la experiencia polaca de modelamiento constitucional de la organización territorial en Ucrania. Igualmente, se analizan las principales reformas al sistema de organización administrativa y territorial de Ucrania y Polonia durante las distintas etapas de su desarrollo histórico. Se observa que cada período de reforma de la estructura administrativo-territorial de los estados estudiados se caracteriza, entre otras razones, por diferentes actitudes hacia el autogobierno local. Se clarificaron así los modelos de los sistemas de organización administrativa y territorial en Ucrania y Polonia y sus características comunes y específicas.

Palabras clave: reforma, estructura territorial, unidad territorial administrativa, modelos de sistemas de organización administrativa y territorial, centralización, descentralización.

Introduction

The comprehension of the territorial organization of any modern state is not possible without a thorough understanding of one of the most important scientific concepts in state law and administration —the concept of administrative and territorial organization of the state. It is used both in a broad and a narrow sense. In a broad sense it covers all the aspects of the territorial division of power, the forms of its organization, the regional differences in the system of government, the settlement of the population, the relationship between society and nature, as well as the problems related to the regional socio-economic policy. The territorial hierarchy should consider the size of the territory and its development, the density and the ethnic characteristics of the population, the state of the infrastructure, and the socio-economic inter-regional relations. The internal organization of the country depends, first, on how accurately its administrative and territorial division takes into account the historical peculiarities of the territory, the socio-economic relations, the natural resources potential, the convenience of communications, and the capacity of the economic center. Effective governance is possible only in case of a coordinated interaction between the central and local executive bodies and the local self-government¹.

In a narrow sense, the concept of territorial organization of power includes categories such as the administrative and territorial organization of the state, the regional management of state affairs, the formation of territorial state organizational and administrative structures, and the definition of territorial objects of government².

The system of administrative and territorial organization in any state (including Ukraine and Poland) is not only an institution of constitutional law, but also an important instrument to divide the country into administrative and territorial units based on the principle of expediency. Moreover, it should be emphasized that this process has to consider various aspects of modern life, including drawing the borders of the administrative and territorial units based on certain grounds (for example, the number of citizens living in the region, the necessity of local elections, etc.).

¹ Sagach Oksana, "Administrative-Territorial Structure of Ukraine: Retrospective Analysis and Current State," *Siverian Chronicle*, no. 4 (2017): 189–196. <http://dspace.nbuv.gov.ua/bitstream/handle/123456789/125133/24-Sagach.pdf?sequence=1>

² Ya. F. Zhovnirchik, "On the Development of Territorial Organization of Local Self-Government in Ukraine," *Scientific Bulletin Academy of Municipal Administration: Series "Administration"* 1, no. 7 (2009): 285.

The authors of this article are convinced that the construction of a system of administrative and territorial organization should be based on historical and comparative elements. This will allow, on the one hand, to incorporate the historical experience of reforming this system, which is based on the principles of tradition. Considering historical experience is an essential condition for success in the process of administrative and territorial reform in any country, as mistakes and ill-considered organization of territories can unbalance the system of state administration and the relations between central and local authorities, leading to unpredictable social, economic, and political consequences³. On the other hand, due to comparative analysis, historical experience will allow to outline the main directions for the division of the country into administrative and territorial units in other states.

The dialectical method was the basis for the analysis of the nature of both states' administrative and territorial structure as a multifaceted phenomenon. Its use allowed to comprehend the Polish and Ukrainian constitutional legal experience, to clarify the essential characteristics of the relevant institutions and to outline directions for further modernization. Thus, for example, the Polish experience of reforms allows avoiding the politically and financially costly administrative reformatting of oblasts (region) and districts, as occurred in France⁴.

These three components (constitutional, historical, and comparative) are extremely important for Ukraine, as in 2020 a widespread reform of the system of administrative and territorial organization began.

“Reform” (from the Latin *reformare*, meaning “to transform”; French – *reformé*) is carried out by the state transformation, change, or reconstruction of any sphere of public or state life⁵. Reforms are characterized by gradual changes; their programs are generally focused on bringing the goals and the complexity of the planned changes to an end.

Among the problems that require a global solution in the process of reforming the administrative and territorial organization are: (1) the unsolved status of existing

³ Sagach, “Administrative-Territorial Structure,” 191.

⁴ Oleksandr Pukhkal et al., “Decentralization as a Basis for Modernisation of Public Administration: European Experience for Ukraine,” *International Journal of Criminology and Sociology* 9 (2020): 2995, <https://doi.org/10.6000/1929-4409.2020.09.364>.

⁵ M. Yu., Tikhomirov and L. V. Tikhomirova, *Juridical Encyclopaedia*. 5th ed. (Moscow: Yuriinformtsentr, 2001), 757.

administrative and territorial units, (2) the inconsistency of personnel, resources, and organizational capacity of the administrative and territorial units with their status, (3) an excessive large number of administrative and territorial units of the basic and district levels which would be better to decrease due to the efficiency of territorial management, etc.

One of the key directions of social transformations in Ukraine is reforming the territorial organization of power on the basis of decentralization. The basic component of this reform is the optimization of the spatial basis of the authorities, which is the administrative and territorial organization.

According to experts, the administrative and territorial reform in Ukraine has both positive and negative aspects. It can be objectively evaluated by analyzing the relevant constitutional and legal elements, among others, having carried out a historical analysis of such reforms in Ukraine, as well as analyzing the experience of other countries with similar organizational and territorial parameters. For Ukraine, such country is the Republic of Poland, a state with much in common in the process of establishing its state traditions, which became the basis of both its modern territorial organization and the general state order.

Also, the Republic of Poland is one of the most successful examples of European state-building. This process was facilitated by the Polish constitutional law reception of the legal approaches of the German and French constitutional and legal doctrines, as well as by the implementation of particular Polish measures.

This state of affairs conferred a certain doctrinal multicharacter to the scientific knowledge of Polish statehood, which was the result of a constant search for innovative approaches to the practical adaptation of the best European ideas on state-building to the purely Polish realities. As a result, in Poland, the transformation of the territorial organization as a component of the state order is much deeper than in other European countries⁶. Although, as it is noted in modern scientific literature⁷, the importance of separate components of the territorial power organization for the processes of a state building was emphasized back in 1903 by the Spanish scientist Eduardo de Hinojosa.

⁶ M. I., Marchuk, *State System of the Republic of Poland: Constitutional and Legal Model* (Kharkiv: Brovin O., 2019), 5–6.

⁷ Santiago A. Bello Paredes, “España: gobernanza y transparencia en el escenario local”, *Novum Jus* 9, no. 1 (2015): 53–54. <https://doi.org/10.14718/NovumJus.2015.9.1.3>.

The evolutionary factor is so important for the proper formation of the legal and political individuality of the Polish state, that some Polish scientists from the Second Republic of Poland once warned that “the cessation of the evolutionary processes in the sphere of political law, the termination of contacts with the constitutional movements of the West, the construction of the life of the Polish people... on principles that were contrary to Polish traditions would create special gaps for legislative creativity in the field of political (constitutional) law... in the sphere of providing a newly built state with the appropriate structure” [constitutionally enshrined state system]⁸.

Finally, it should not be forgotten that after the collapse of the Russian Empire, a large area of Western Ukrainian lands were part of the newly formed Polish state, where the Polish administrative and territorial organization was introduced.

There are no comprehensive studies simultaneously highlighting all three elements of the administrative and territorial organization reform (constitutional, historical, and comparative). Most attention has been paid to the historical and comparative components of the process of building the system of administrative and territorial organization. In particular, the historical development of the administrative and territorial organization of Poland and Ukraine after the collapse of the Russian Empire, in the interwar and post-war periods (the late 1980s and early 1990s), has been analyzed in the work of such scientists as:

- Bayrak (2013): Tried to define the Polish system of administrative and territorial division through the study of local self-government bodies.
- Boyko (2017): Characterized the administrative and territorial division of the Ukrainian People’s Republic according to its Constitution of 29 April 1918.
- Boyko O. (2009): Analyzed the administrative and territorial division of the Hetman Pavlo Skoropadsky’s Ukrainian state (the Second Hetmanate).
- Brovko (2013): Covered the processes of the administrative and territorial organization during 1975-1989 in Poland.
- Gai-Nyzhnyk, Leyberov (2014): Defined the system of administrative and territorial organization in the Ukrainian People’s Republic during the Directorate.

⁸ Komarnicki Waclaw, *Ustrój państwowy Polski współczesnej: geneza i system* (Wilno, 1937), 443 s.

- Magnovskyi (2009): Considered the administrative and territorial division of the West Ukrainian People's Republic.
- Marchuk (2015, 2019, 2020): Studied in historical context the problems of territorial organization, the peculiarities of the territorial self-government of the gmina, the general character of the administrative and territorial organization in Poland, etc.
- Michuda (2018): Described the changes in the administrative and territorial division of the Ukrainian Socialist Soviet Republic during the 1920s and 1930s.
- Pustovoi (2011): Studied the development of the system of administrative and territorial division of Ukraine based on the tension of centralization and decentralization in Ukraine and on the analysis of the norms of the Ukrainian People's Republic Constitution of April 29, 1918, the constitutional acts of the Ukrainian state of Hetman P. Skoropadsky, and the Soviet constitutions;
- Sagach (2017): Analyzed the changes in the system of administrative and territorial organization of the state based on a thorough analysis of a number of laws and subordinate acts issued in the Ukrainian Socialist Soviet Republic in the 1920s.

It should be noted that various works were devoted to the comparative study of the administrative and territorial organization of Ukraine and the Republic of Poland, including the main trends of their reforms in different historical periods, including modern and future development prospects, and the possibility of using the experience of Poland in this area. Among the most recent scientific works we can mention Aponchyk, Svitlychna, Marchuk, Pilipenko, Chepel, among other scientists.

The History of the Formation and Development of the System of Administrative and Territorial Organization of the Republic of Poland: The Interwar Period

The history of the formation and development of the system of administrative and territorial organization of the Republic of Poland, from its genesis as an independent state after the fall of the Russian autocracy until the collapse of the socialist camp in the late 1980s, can be divided in two periods. The first one goes from 1918

to the liquidation of sovereign Poland in 1939 (interwar period), and the second covers the developments occurred after the Second World War (post-war period).

During the first period, several constitutions were adopted: the so-called Small Constitution (or Legislative Sejm's ordinance) of February 20, 1919⁹; the Constitution of March 17, 1921 (March Constitution, Constitution of 1921)¹⁰; the Constitution of April 23, 1935 (April Constitution, Constitution of 1935)¹¹.

The Small Constitution became the first legislative act of independent Poland in 1919. It was characterized by the temporary and incomplete regulation of the relations in the state, since the basic principles of the political, social, and economic system, namely, the rights and freedoms of citizens, remained unsettled. First of all, the provisions of the Small Constitution consolidated the power of the higher authorities and administration. And this is natural for any newly formed state, because the priority of the legislator is to establish the authorities that make fundamental decisions on the regulation of public relations throughout the state.

However, over time the need for constitutional regulation of other important issues arose, in particular, for the definition of the administrative and territorial organization and for the construction of an effective system of local self-government. These issues were consolidated in the next Polish Constitutions. Thus, the provisions of the March Constitution of 1921 defined both the status of local self-government and the territorial division of the Republic of Poland. This Constitution provided that the state order would be based on a system of self-government with broad powers. Article 65 established that "in administrative order the Polish state will be legally divided into voyevodships, districts, and urban and rural communes that at the same time will be the units of territorial self-government"¹².

Thus, it was determined at the constitutional level that the administrative and territorial division of the Republic of Poland is a three-level one: the country is divided into voyevodships, voyevodships into powiats, and powiats into gminas.

⁹ Sejm Ustawodawczy, Uchwała z dnia 20 lutego 1919 "Z w sprawie powierzenia Józefowi Piłsudskiemu dalszego sprawowania urzędu Naczelnika Państwa" (in Polish). <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19190190226>

¹⁰ Sejm, Ustawa z dnia 17 marca 1921 r. "Konstytucja Rzeczypospolitej Polskiej" (in Polish). <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU19210440267/O/D19210267.pdf>.

¹¹ Sejm, Ustawa z dnia 23 kwietnia 1935 r. "Konstytucja kwietniowa" (in Polish). <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19350300227>

¹² Sejm, "Konstytucja Rzeczypospolitej Polskiej".

Interestingly, in the early 1920s the Polish state granted broad rights to local governments (formed based on this three-level system). Thus, Article 68 of the March Constitution established that in addition to territorial self-government, economic self-government was also envisaged¹³.

Also, according to the Constitution of 1921 the state exercised only indirect supervision over the local self-government bodies. The state authorities had to control the activity of these bodies, established in accordance with the administrative and territorial division, through the “superior level self-government” (Article 70). Partially, such supervision under a special law could also be transferred to the administrative judiciary.

The situation began to change in 1928 with the decision to introduce the principle of domination of the government administration over local self-government bodies. And in 1933 the system of self-government bodies at the level of gminas, towns, and cities, was practically unified.

Finally, after the adoption of the last pre-war constitution, the Constitution of 1935, local self-government throughout the state was placed under control of state authorities (although the administrative and territorial organization remained unchanged: voivodeships, urban and rural gminas; they were defined as “administrative districts” under Article 73). Equally revealing was Article 75, which in paragraph 1 explicitly defined the reason for the formation of administrative districts: solely for the performance of public administration tasks¹⁴. Paragraph 5 of this article also changed the list of subjects of control over the activities of self-government bodies in comparison with the Constitution of 1921: the supervision exercised by superior level self-government now could also be exercised by government bodies. Thus, while the administrative and territorial organization remained unchanged, the attitude of the state towards local self-government changed considerably: The authorities tried to increase their control, that is, while the form of the phenomenon was static its content changed.

There are internal and external reasons that contribute to explain this process. Among the internal reasons we will highlight, first of all, the actual change of the state regime in Poland after the events of May 1926. After the coup, Poland's first

¹³ Sejm, “Konstytucja Rzeczypospolitej Polskiej”.

¹⁴ Sejm, “Konstytucja kwietniowa”.

Chief of State, Józef Pilsudski, established a military dictatorship, thus levelling the provisions of the rather democratic Constitution of 1921. The policy of “sanation” or the so-called “rehabilitation of the state” became the basis of this regime, and the officials acted exclusively by authoritarian methods. Under such circumstances, it was clear that while maintaining unchanged the system of administrative and territorial organization, the state authorities tried to take the representative bodies of the administrative districts under strict control.

Another internal reason may be the following. It was during this period that Poland had not only ethnic Polish lands, but also a huge array of Western Ukrainian lands, where several million Ukrainians and other peoples lived. It should be noted that in the 1920s, unions, associations, and movements began to emerge among the Ukrainian population to resist the Polish government. Their members, elected to self-government bodies, conducted pro-Ukrainian policies. The Polish government tried to suppress this liberal movement. This could only be done by imposing strict control over local self-government and by not allowing the decentralization or autonomy of Ukrainian lands.

Among the external reasons for the introduction of authoritarian methods of management (also on the Ukrainian lands that were part of the Polish state), we can mention the global trend of the 1920s and 1930s toward the strengthening of state authorities (primarily executive) connected with the growing demand for “leaders” and “dictatorship” among the population (especially after the Great Depression of 1929-1932). It was typical not only for the authoritarian or totalitarian European countries or for the Japanese Empire, but even for the democracies of the world. Poland wasn't an exception.

A more local external reason that influenced the formation of authoritarianism in Poland was its location between the two totalitarian states –the Bolshevik USSR and Nazi Germany, which pursued aggressive policies against the Republic of Poland. In order to oppose these states, Poland “upgraded” its state policy in all spheres, including the relations with self-government bodies.

Development of the Administrative and Territorial Organization of the Republic of Poland in the Post-War Period

The reform of the administrative and territorial organization of the Republic of Poland in the post-war period was related to the inclusion of Poland in the sphere of influence of the USSR. This led to the introduction of the norms of Soviet state-building in Poland. This process took place gradually and systematically. Thus, before the adoption of the Constitution of Poland in 1952, there were both a restoration of the pre-war three-level system of administrative and territorial organization and the introduction of the Soviet model of councils throughout the state, which was fundamentally different from the Polish one. If during pre-war Poland the principle of division of state power into three branches and the recognition of local self-government prevailed, the Soviet doctrine was based on other postulates. Such was the concept of “the state power unity”, which rejected the principle of separation of the state power and denied the existence of local self-government. The representative bodies in the administrative and territorial units were considered only as local state bodies.

Therefore, the Constitution of the Polish People’s Republic of July 22, 1952 (the Constitution of 1952) explicitly stated that the people’s councils elected by the residents were simultaneously local state authorities and the main bodies of public self-government (Article 43)¹⁵. Elections to these bodies were to be held in the voivodeships, powiats, urban and rural communities.

In the 1950s and 1970s an administrative and territorial reform was carried out in the Republic of Poland, which significantly changed the structure of local authorities. “Experiments” enlarging, reducing, or liquidating certain administrative and territorial units were conducted. This was explained by the need to ensure socio-economic and cultural development and eliminate the problems of local governance. A significant reduction in the number of communities was mainly aimed at intensifying the development of agriculture. There were other changes: towns were separated from voivodeships, zoning was introduced in large towns, and councils were created at the level of a new unit—the village.

¹⁵ Sejm Ustawodawczy, Ustawa z dnia 22 lipca 1952 r. “Konstytucja Polskiej Rzeczypospolitej Ludowej” (in Polish). <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19520330232>

The radical changes in the administrative and territorial organization in the Republic of Poland took place during 1972-1975, when the powiats were abolished, and instead of communities voivodeships and gminas were re-formed, and villages were eliminated as units, etc. This new system envisaged the establishment of numerous small voivodeships and aimed to create a centralized vertical system of government. In general, the administrative system of the Polish People's Republic was based on the dominance of the departmental structure over the territorial one¹⁶. This led not only to the strengthening of the central government's influence on territorial units, but also to an organizationally dispersed administration¹⁷. The elimination of powiats (which were historically formed) weakened and slowed the development of cities that were powiats' centres and reduced the accessibility of their services to the public, as some of these functions were transferred to city centres that were the administrative centres of voivodeships¹⁸. That is, during the Soviet period there was a chaotic and scattered reform of the administrative and territorial division. It was also notable that during this period the government abandoned the Polish tradition of recognizing local self-government, guided by its own, rather than people's, interests.

The restoration of territorial self-government in Poland took place only in 1990 with the adoption of the *Law on Gminas' Self-Government* of March 8, 1990¹⁹, and was based on the interwar experience. However, a key role in the decentralization process was played by the strengthening of local governments in the gminas, because inside them the policy and the activities of their smaller organizational entities and the auxiliary units were coordinated.

At the same time, it should be noted that the consolidation of the concept of sub-local government did not always indicate the self-governing nature of these intra-communal units²⁰.

¹⁶ Pukhkal et al., "Decentralization as a Basis for Modernisation", 2996.

¹⁷ L. L. Prokopenko, and I. D. Shumliaeva, "Reforming the Territorial Organization of Power in Poland: Experience for Ukraine," *Public Administration: Theory and Practice* 2 (2012): 3.

¹⁸ Zbyszka Chojnicki and Teresa Czyż, "Nowa organizacja terytorialna polski i układ regionalny," *Czasopismo geograficzne LXXI*, no. 3-4 (2000): 263. http://igsega.amu.edu.pl/wp-content/uploads/2018/05/Chojnicki_Czyz%C5%BC_2000a.pdf

¹⁹ Sejm, Ustawa z dnia 08 marca 1990 r. "O samorządzie gminnym" (in Polish). <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19900160095>.

²⁰ Małgorzata Madej, "Jednostki pomocnicze i ich rola w miastach na prawach powiatu na przykładzie Wrocławia," *Studia Regionalne i Lokalne* 2, no. 84 (2021): 94. <http://doi: 10.7366/1509499528406>.

With Poland's transition to building capitalist relations, there was a gradual need to optimize its self-governing structures, considering the peculiarities of local government in Western Europe²¹.

Thus, decentralization in Poland during the post-communist transformations was recognized as one of the mechanisms of good governance. It was “the process by which the central government transfers powers, functions, responsibilities and financial powers or decision-making powers to other subjects from central level of government to lower one, or to decentralized public institutions or the private sector”²².

Thus, since 1990 and until the Constitution of the Republic of Poland came into force in 1997, it was the provisions of the Small Constitution of 1992 and the *Law on Gminas Self-Government* which became the basis for reforming the territorial organization of public authority. The reform of the territorial organization was an integral part of the changes and the formation of the Republic of Poland as a democratic state. It became the final link in the reconstruction of public administration, which allowed the implementation of a decentralized public administration and the development of local self-government²³.

The main structural reforms of 1998 introduced a new basic territorial division of the Republic of Poland, which consisted of three levels: gmina, powiat and voivodeship²⁴. This division was based on the principle that each unit should be a unit of local self-government with appropriate authorities²⁵.

This new territorial organization of the Republic of Poland served to decentralize the public power, and the newly adopted Constitution of the Republic of Poland in 1997 created the conditions for the introduction of a new structure of public administration (Table 1).

²¹ Mikola Marchuk, *The State System of the Republic of Poland* (Doctor's thesis, Kharkiv State University of Internal Affairs, 2020), 377.

²² Yasin Olum, “Decentralisation in Developing Countries: Preconditions for Successful Implementation,” *Commonwealth Journal of Local Governance*, no. 15 (2014): 23–38. <https://doi.org/10.5130/cjlg.v0i0.4061>.

²³ Chojnicki, “Nowa Organizacja Terytorialna Polski”.

²⁴ M. I. Marchuk, “Territorial Self-government of the Republic of Poland in the Context of European Integration,” *Forum Prava*, no. 1 (2011): 624. <http://dspace.univd.edu.ua/xmlui/handle/123456789/3477>.

²⁵ S. O. Bairak, “Evolution of Local Government of the Republic of Poland in the Process of the Democratic Transformation,” *Panorama of Political Science Studies* 8 (2012): 174–181.

Table 1. Overview of the Territorial Organization of Authorities in Poland

	Local self-government		State authorities		
Central level			The Prime Minister and the Council of Ministers		
					Central public authorities
Voivodeship's level	Sejmik		Voivode	Voivodeship's administration	Central government institutions
	Marszałek	Voivodeship board	Voivodeship government		
Powiat's level	Starosta			Powiat administration	
	Powiat council	Starostwo (powiat executive bodies)			
Gmina's level	Wójt (Mayor)/ Burmistrz / President of gmina				
	Rada gminy (Municipal council)	Gmina government			

Source: Authors.

Moreover, declaring that “all the residents of the territorial organization of the state have the right to a self-governing community”²⁶, the Constitution connected the concept of territorial organization of the state with the division into territorial self-government units. This indirectly found an additional normative reflection in the Law *On Introduction of the Basic Three-Stage Territorial Organization of the State* of July 24, 1998, as self-government was introduced not only in gminas but also in powiats and voivodeships. The voivodeships were reduced from 49 to 16. The 65 largest cities and both existing and former voivodeship centres received the rights of a powiat.

Administrative and Territorial Organization of Ukraine: Main Stages of Formation

In view of the subject of the study, the next object necessary for the comparative analysis is the system of administrative and territorial organization of Ukraine during two main historical periods: the period of national states and the Soviet period.

²⁶ Zgromadzenie Narodowe, “Konstytucja Rzeczypospolitej Polskiej z dnia 2 kwietnia 1997 r., przyjęta przez Naród w referendum konstytucyjnym w dniu 25 maja 1997 r., podpisana przez Prezydenta Rzeczypospolitej Polskiej w dniu 16 lipca 1997 r.” (in Polish). <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu19970780483>.

The history of the administrative and territorial division of Ukraine dates back centuries. The military, mobilization, and fiscal goals were pursued by this division until the end of the 18th century. This was reflected in the names of the administrative and territorial units during different periods of Ukrainian history: Principality—a tumen (tens of thousands), a mingghan (thousands), an arban (tens); Lithuanian-Polish—a state, a voivodeship, a powiat; Cossack—a regiment, a sotnia, a kurin.

Since the end of the 18th century, a governorate was introduced in the Ukrainian lands that became part of the Russian Empire. The governorate, in turn, was divided into povit, and the lowest level were volost and villages. In the lands which belonged to the Austro-Hungarian Empire, the territory was divided according to the following scheme—a crown land, an okrug (district), and a gromada (communities)²⁷.

Democratic policy in this sphere existed during the period of the Ukrainian People's Republic (UPR) of the Central Rada. In the organization of local authorities and local self-government, the Central Rada tried to reorganize the previous administrative and territorial organization, adapting it to the needs of national state-building²⁸. This position of the state was expressed in the Constitution of the Ukrainian People's Republic of April 29, 1918 (the Constitution of the UPR of 1918). This includes the establishment of a three-level system at the level of gromadas, volosts and lands²⁹ (thus moving away from the Russian system) and the recognition of broad self-government (Article 26)³⁰ as an embodiment of the principle of decentralization. It can be noted that the Constitution of the UPR of 1918 and the Constitution of Poland of 1921 were almost identical in the consolidation of these reforms. However, the resolutions proclaimed by the Ukrainian People's Republic did not find the necessary support among the majority of the country's population; various and often opposing ideas on the development of Ukraine as a state-territorial organization continued to emerge in society³¹.

²⁷ Sagach, "Administrative-Territorial Structure of Ukraine," 191.

²⁸ Tetyana Gudz, *Municipal Police as a Form of Realization of the Law Enforcement Function of Local Self-Government* (Candidate's thesis, Kharkiv State University of Internal Affairs, 2012), 40.

²⁹ V. S. Pustovoi, "The History of Centralization and Decentralization of Ukrainian State: Legal Aspects," *Current Problems of State and Law* 60 (2011): 435. <http://www.apdp.in.ua/v60/62.pdf>

³⁰ P. Hai-Nyzhnyk and O. Leiberov, *UPR in the Period of the Directory: The Search for a Model of Government (Late 1918-1919)* (Nizhyn: Lysenko M. M. Publisher, 2014), 30.

³¹ Pustovoi, "The History of Centralization and Decentralization," 435.

The next period of the territorial organization of Ukraine is characterized by the rejection of the policy of the Central Rada. Thus, the three-level system of administrative and territorial division (which existed in the Russian Empire: governorate, povit and volost) was renewed. Relevant officials were appointed to these units: gubernial and povet starostas (elders), who had all the local power. Gubernial starostas were almost equal in status to governors³². In fact, the local self-government was destroyed, in units that only had local authorities, and their relations with the central authorities were based on a strict hierarchy. In this way, the principle of full domino of the state was introduced, while maintaining a three-level system of administrative and territorial division.

The return to the principles of decentralization and the recognition of local self-government took place during the Directorate of the Ukrainian People's Republic. The Directorate did not change the name of the hetman units (although there was a plan to replace the gubernia with a volost). But locally the representatives of the state administration (gubernia, povit and volost commissars) coexisted with local self-government bodies (labour councils, which were given considerable powers)³³.

A similar system operated in the West Ukrainian People's Republic. The newly formed state was unable to create a new system of administrative and territorial organization, and therefore it used the former Austrian one: a povit, a town and a village (three-level). However, there was a significant difference in the organization of government, as state commissioners were appointed in these units. They cooperated with the local self-government bodies—councils.

It can be noted that this short period in the formation of the administrative and territorial organization of Ukraine (1918-1920) was characterized by an attempt to normalize relations between the state authorities and the local self-government bodies (except for the period of Hetmanate), while maintaining a three-level system of administrative and territorial organization. However, all reforms were chaotic; they brought anarchy locally, and disorganized the population. Political and ideological preferences of the heads of states, socio-economic difficulties, as well as constant foreign interference in internal affairs had a significant influence on the process of reforming the administrative and territorial organization of the Ukrainian territories.

³² Gudz, "Municipal Police," 41.

³³ Hai-Nyzhnyk, *UPR in the Period of the Directory*, 31–32.

The policy of the Soviet authorities in reforming the administrative and territorial organization was based on the unity of state power, a strict hierarchy, and the rejection of local self-government and democratic principles. Bolsheviks rejected classical self-government as a bourgeois institution. Already in the Civil War period the councils established by them lost their local self-government function and worked exclusively as bodies of proletarian dictatorship³⁴. In addition, there were permanent and unjustified changes in the system of administrative and territorial division. Such policy was typical during all the Soviet state period.

In general, it is possible to highlight three periods in the administrative and territorial organization of Soviet Ukraine:

- The first period: The formation of a system of administrative and territorial organization (1919-1929);
- The second period: The attempts to improve the administrative and territorial organization during the 1930s; it was laid down in the Constitution of the Ukrainian Soviet Socialist Republic (UkrSSR) of 1937;
- The third period: The post-war period, characterized more or less by the stabilization of the system, and its execution in the Constitution of UkrSSR of 1978.

At the constitutional level, the division of the Ukrainian Socialist Soviet Republic was enshrined in the Constitution of March 10, 1919. In the section “The Local Organization of the Soviet Authorities”, the division of the country into four units was introduced: a gubernia, a povit, a volost, and a town. And the local authority was distributed among the Councils of Workers, the Village and the Red Army Deputies, the Congresses of the Councils, and the executive committees (Article 18)³⁵. Central authorities were entrusted with the control of their activities.

During the 1920s, large-scale “experiments” were conducted to build an effective system of administrative and territorial division. The objective was to eliminate chaos in local government, and was influenced by the formation of the USSR and the efforts of the union centre to impose their own vision of reform to the republican authorities. The four-level system established by the Constitution of the Ukrainian

³⁴ Gudz, “Municipal Police,” 42.

³⁵ Verkhovna Rada of Ukraine, “Constitution of the Ukrainian Socialist Soviet Republic” (March 1919) (in Ukrainian). <https://zakon.rada.gov.ua/laws/show/n0001316-19#Text>

Socialist Soviet Republic of 1919 was ineffective in terms of managerial organization. That is why in 1922 there was a transition to the three-level system: a region, a district, a village. This transition was considered quite successful both in view of the control over the activities of local authorities and in their effective exercise of power. In 1925, another reform of the administrative and territorial organization took place. It aimed at the final elimination of the remnants of the previous system of the Russian Empire. In particular, the governorate was liquidated and the following three-level division was established: region – district – soviet (council) (city, village and town)³⁶. As a result, the number of institutions between the republican centre and the locations decreased; the state apparatus became simpler. For the first time, the regions were given the rights of a legal entity. In addition, in 1928, the city and village councils were sufficiently empowered to acquire the status of higher local authorities, a progressive phenomenon.

Among the reforms implemented in the USSR during the transition to the New Economic Policy, the administrative and territorial one occupied one of the leading positions. A large number of transformations in the system of administrative and territorial division were carried out during the 1920s. It was during this period when the Soviet Ukraine that inherited the administrative and territorial organization from the Russian Empire felt the need to replace it with one that would be adapted to the tasks of the new government³⁷.

The process of reforming the administrative and territorial organization in the 1920s was completed with the adoption of the Constitution of the UkrSSR on May 15, 1929 (the Constitution of the UkrSSR of 1929). However, this Constitution did not have a separate group of legal norms regulating the sphere of administrative and territorial organization of the state. Also, the centre's power apparatus was defined more categorically in this document³⁸. Thus, in Article 49 it was determined that locally the Soviet authorities were created at the level of cities and villages (Councils of Workers, Village and Red Army Deputies) and at the level of regions and districts (Congresses of Councils and elected Executive Committees)³⁹. Thus, at the end of the 1920s it was recognized that the three-level system of territorial

³⁶ Igor Magnovskiy, "Features of the Territorial Organization of Ukrainian Lands as Part of Foreign States in the Early XX Century," *Scientific Herald of the National University of Internal Affairs* 3 (2009): 189. http://elar.naiu.kiev.ua/bitstream/123456789/6556/1/Untitled.FR12_p187-194.pdf

³⁷ Sagach, "Administrative-Territorial Structure of Ukraine," 191.

³⁸ Pustovoi, "The History of Centralization and Decentralization," 437.

³⁹ Verkhovna Rada of Ukraine, "Constitution of the Ukrainian Socialist Soviet Republic," (May 1929) (in Ukrainian), <https://zakon.rada.gov.ua/laws/show/n0001316-29#Text>.

organization was the most effective for the establishment of the people's state locally, for communication between the centre and locations, and was more accessible for the citizens. It should be noted that the economic and political development of the Ukrainian state at that time caused a constant process of adaptation of the administrative and territorial organization. At the same time, new economic conditions, changes in the distribution of productive forces, cultural development, among others, constantly led to the revision of the borders of the administrative centres and of the number of administrative and territorial units⁴⁰.

The second period began with the reform of the administrative and territorial division of the Ukrainian Republic. The reason for this reform was the need to quickly carry out a collectivization of agriculture. Therefore, it was necessary to recognize the primordial unit of the administrative and territorial organization as the basis of the national economy. The three-level system was liquidated; instead, a two-level system appeared—the centre and district, where the district was recognized as the main management chain in the village. It was explained that this was done to bring the public administration closer to the workers and to reduce the costs of administrative staff.

However, time has proved the complete inefficiency and poor planning of such a transition. After all, the interests of the state, the economic burden of the regions, the provision of transport routes and communication, the interests of reduction, simplification, and improvement of the state apparatus, all these aspects required new approaches to the administrative and territorial division of the Ukrainian Republic⁴¹. That is why in 1932 the transition to the three-level system took place again: centre–region–district. This system was finally formalized by the Constitution of the Ukrainian Soviet Socialist Republic of January 30, 1937 (the Constitution of the UkrSSR of 1937). Unlike the Constitution of 1929, the authors of the new one tried to specify the system of administrative and territorial organization of the Ukrainian state, introducing, in particular, the concept of regions, their autonomy and even listed their numbers and names, which became traditional in the future⁴². Thus, Article 54 determined that local governments (Councils of Workers' Deputies and their executive committees) were created at the level of regions, districts,

⁴⁰ V. V. Michuda, "Changes in the Administrative-Territorial Division of Ukraine in the 1920s and 1930s," *Young Scientist* 5, no. 57 (2018): 555. <https://molodyivchenyi.ua/index.php/journal/article/view/4578/4500>.

⁴¹ Magnovskiy, "Features of the Territorial Organization of Ukrainian Lands," 189.

⁴² Pustovoi, "The History of Centralization and Decentralization," 437.

cities, towns, and villages on an elective basis⁴³. In addition, the Constitution of the UkrSSR of 1937 listed the regions that made up Ukraine.

In the post-war period, attempts to update the administrative and territorial organization were made in the late 1950s and early 1960s. It was decided to reduce the number of administrative and territorial units. Also, a system of village and industrial councils was introduced in order to intensify the economic planning of regional development. But these reforms created chaos in local governance, as in fact the village and industrial councils replaced the regional and district councils. Therefore, in 1964-1965 the village and the industrial councils were abolished. After that, there were no significant changes in the administrative and territorial organization of the UkrSSR.

The final administrative and territorial division was established in the Constitution of the Ukrainian SSR on April 20, 1978 (the Constitution of the UkrSSR of 1978). The main law inherited the strict hierarchy of power relations, which was a defining feature of all Soviet constitutions, and even openly strengthened it. Also, the Constitution paid close attention to the administrative and territorial organization of the state⁴⁴. Article 78 determined that local authorities (Council of People's Deputies) are created at the level of regions, districts, cities, districts in cities, towns and villages⁴⁵. The Constitution of the UkrSSR of 1978, as well as the Constitution of 1937, contained a list of the regions that made up the Ukrainian SSR. In addition, the Constitution of the UkrSSR of 1978 recognized the local councils as bodies of state authority, endowing them with general competence. The principle of the centralism and subordination of councils and their executive committees was established. There was a rigid vertical of power, whose only executor was the local government.

Such stability at the regional level generally played a positive role. In fact, new regions were formed in Ukraine and they differed significantly from the traditional division of Ukrainian lands, both geographically and socio-economically, as well as ideologically⁴⁶.

⁴³ Verkhovna Rada of Ukraine, "Constitution of the Ukrainian Soviet Socialist Republic" (January 1937) (in Ukrainian). https://zakon.rada.gov.ua/laws/show/001_001#Text.

⁴⁴ Pustovoi, "The history of Centralization and Decentralization," 438.

⁴⁵ Verkhovna Rada of Ukraine, "Constitution of the Ukrainian Soviet Socialist Republic" (April 1978) (in Ukrainian). <https://zakon.rada.gov.ua/laws/show/888-09#Text>.

⁴⁶ A Tkachuk, R. Tkachuk and Yu. Ganushchak, *From the History of Reforming the Administrative and Territorial Organization of Ukraine, 1907–2009*, (Kyiv, 2009), 44.

On the other hand, the Soviet Constitutions moved away from the classical approach to administrative and territorial organization as a universal territorial entity with certain authorities, and introduced cities and villages in addition to the actual administrative and territorial entities, which were regions and districts (Constitution of the UkrSSR of 1937). The Constitution of 1978 further expanded this list by adding districts in cities, declaring Kiev and Sevastopol as cities of “republican status”, and establishing the Autonomous Republic of Crimea⁴⁷.

That is, from the clear three-level system of administrative and territorial organization, which was declared in the Constitution of the Ukrainian People’s Republic, to the new Constitution of Ukraine in 1996 we arrived with a non-hierarchical structure and a confusing system of administrative and territorial organization⁴⁸.

During 1990–1996, by making numerous amendments to the Constitution of the UkrSSR of 1978, this rigid vertical and absolute power of various councils was partially destroyed. However, there were no changes in the general system of administrative and territorial organization nor a clear separation of executive (state) authorities and local self-government.

Many achievements and problems of the territorial organization of power during the Soviet era were inherited by independent Ukraine, and were reflected in the Constitution of Ukraine on June 28, 1996⁴⁹ (Constitution of 1996) and in the Law on local self-government (1997)⁵⁰. This Law defines the system and guarantees of local self-government, the basis of the organization and the governmental activity, and the legal status and responsibility of the bodies and officials of the local self-government. In this way, the constitutional and legal state, thanks to the legislative authority, attracted the public associations of citizens of administrative and territorial units to implement its teleological dominants and included them in its own mechanism⁵¹.

⁴⁷ Tkachuk, *From the History*, 44.

⁴⁸ Tkachuk, *From the History*, 44.

⁴⁹ Verkhovna Rada of Ukraine, “The Constitution of Ukraine” (June 1996). <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-pp?lang=en#Text>.

⁵⁰ Verkhovna Rada of Ukraine, Law of the from Maj, 21 1997 № 280/97-BP “On Local Self-Government In Ukraine” (in Ukrainian). <https://zakon.rada.gov.ua/laws/show/280/97-pp#Text>.

⁵¹ M. O. Baimuratov, “Local Self-government as a Common Heritage of Human Civilization and a Phenomenon of Modern World Constitutionalism,” *Bulletin of the Ministry of Justice of Ukraine* 4–5, no. 90–91 (2009): 43.

At the same time, the system of territorial organization of power, in accordance with the Constitution of 1996, was inefficient. The system of administrative and territorial organization of Ukraine didn't allow forming territorial communities with sufficient material, financial resources, territory, and social infrastructure facilities necessary for the effective implementation of the tasks and powers of local self-government⁵². The shadow of the Stalin and Brezhnev Constitutions made it impossible to realize in the modern Constitution of Ukraine the achievements not only of the European experience of constitution-making, but also of the ideas enshrined in the Constitution of the UPR of 1918.

The current model of territorial organization of power in Ukraine does not meet the European standards and principles of the European Charter of Local Self-Government, nor the European requirements of regionalization and hinders Ukraine's accession to the European Union. Therefore, in 1998 the administrative and territorial reforms were based on the Concept of Administrative Reform in Ukraine⁵³, which provided for the gradual solution of several problems of administrative, territorial, functional, financial and economic importance, as well as for the introduction of a more rational administrative and territorial organization. The logical continuation of this process is the administrative and territorial reform at the sub-regional level in 2020, which gives greater powers to local self-governments (decentralization) and makes changes in the administrative and territorial division. Although this process has some managerial problems that will sooner or later have to be solved, we are deeply convinced that Ukraine is on right track, as it is the well-defined administrative and territorial organization that guarantees sustainable development.

Conclusions

The historical experience of reforming the system of administrative and territorial organization in Poland and Ukraine at different stages of their state formation proves that the main directions of change were: the creation of effective levels for organizing the activities of both local authorities and local self-governments; the simplification of the relationship between the centre and the local entities; the improvement of the activities of the representative bodies at all levels of the administrative and

⁵² Yuriy Buglak, "Distribution Problems Authority between Bodies Executive Authorities and Bodies of Local Government in Ukraine," *Entrepreneurship, Economy, and Law* 11 (2018): 72.

⁵³ President of Ukraine, Decree of July 22, 1998, № 810/88 "On Measures to Implement the Concept of Administrative Reform in Ukraine" (in Ukrainian). <https://zakon.rada.gov.ua/laws/show/810/98#Text>.

territorial organization; and the intensification of the socio-economic development in the administrative units, among others.

The most important issues were: the correspondence of the levels of administrative and territorial organization to the existing types of state administration and traditions of state-building, the recognition or non-recognition of local self-government; the ratio and effectiveness of the principles of centralization and decentralization in the implementation of the authorities, etc. The solution of these issues depended on several factors: the public order in the state, the form of the political regime and the dominant ideology, and external factors. In this case, the system of administrative and territorial organization itself is a form, and the content was carried out by the state (the purpose of the system, the formation within the units of representative bodies with a set of powers, etc.).

Each period of reforming the administrative and territorial organization of the studied states was characterized by a different attitude to local self-government, which allowed us to define the following models of public authorities:

- **Polish pre-war model:** This model was characterized by a fundamental recognition of local self-government, which represented the interests of the population of different administrative and territorial units. However, while the early 1920s self-government was granted broad rights with moderate control by the state, in the 1930s the self-government bodies were subject to strict state control. In addition, this model provided for only a three-level system of administrative and territorial division, and was based on historical tradition.
- **Ukrainian model (in the period of 1918–1920, similar to Polish):** This model recognized the local self-government, which was in charge of solving the local problems. The Ukrainian People's Republic period of the Central Rada is characterized by the actual absence of local state bodies and a rather liberal attitude to the control of self-government bodies by the central state institutions. As an exception, under the rule of Hetman P. Skoropadsky the local self-government bodies were under strict state control with a significant reduction of their rights. Both in Poland and in Ukraine there was a three-level system of administrative and territorial organization. It was based both on the historical Ukrainian tradition (the UPR at times of the Central Rada and the Directorate) and on the attempts to preserve the administrative units that existed during the Russian and Austro-Hungarian empires (P. Skoropadsky's Hetmanate, the West Ukrainian People's Republic).

- **Soviet model:** This model was radically different from the previous ones. It was based on the a priori statement about the harmfulness of local self-government. Therefore, under it only local state authorities should exist in administrative and territorial units. Moreover, there should be double control over their activities: firstly, by higher authorities in the system of administrative and territorial organization, and secondly, by the central government. Thus, this model introduced the strict principle of centralization in Soviet Ukraine. The system of administrative and territorial organization itself was constantly reformed: four-level, two-level and, finally, three-level systems were introduced in different years. This can be explained by the attempts to move away from the Russian Empire system, by the need to establish links between the centre and the locations, by the total collectivization, etc.

Among the newest approaches to building relationships between subsystems of power at the local level in both the Republic of Poland and Ukraine is the widespread practice of modernizing municipal dualism, which allows to rationalize the relationship between state and local government, while maintaining their special legal nature (independence) and inalienable rights and decentralizing some executive functions.

Of particular importance is the mechanism of changing the territorial organization of power enshrined at the constitutional level. This is reflected in the relevant powers of the authorities in charge of the territorial organization of power in Poland and Ukraine. At the same time, some provisions in this area need to be improved at a national level. They should include: (a) the possibility of changing the boundaries of territorial entities in which public authorities carry out their activities; (b) the ability to determine the status of the respective territories and outlining their significance for the development of the state; (c) the possibility to determine the internal structure of the respective territories, etc.

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