

## **Concept Paper on Local Self Government Reform Project**

On November 23, 2011 the Mayor of Vinnytsia Mr. Volodymyr Groysman presented to SCO his project idea “Reform of Local Self Government”. The project presupposes creation of a working group of international experts from different countries, highly profiled in local self government issues, who will develop a concept for a gradual and feasible reform in this sphere. The focus shall be on proposing amendments to the Law of Ukraine on Local Self Government. To secure sustainability and the bottom-up approach the group of international experts will be closely working with the Association of Ukrainian Cities <http://auc.org.ua/en> .

SCO showed interest in the project idea, which is considered highly political and risky, but with very high added value in case of success. SCO has consulted with the Embassy, which is also strongly supporting this proposal.

The current concept paper presents initial findings of SCO on the status quo in the sphere of local self government and contains the following sections:

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# 1. LEGISLATION MAPPING

## 1. *The Constitution of Ukraine (1996)*

The document establishes local government in Ukraine. It defines the most important powers of local governments, the material and financial basis for local government, and key principles for running local budgets. At the same time the basic law lacks clarity in forming a hierarchical system of administrative territorial units (ATU) and lays foundation for conflicts between authorities at the regional, rayon, and territorial levels. No territorial basis is defined for executive authorities and local self-government bodies. Dualism of local state administrations, embedded in the Constitution, together with the lack of executive bodies in rayon and oblast councils (also not envisioned by the Constitution), does not provide any opportunity for real executive power decentralization.

## 2. *Administrative and Territorial Organization*

In Ukraine there is no basic law to define the administrative-territorial organization system, the order of creating, re-organizing and termination of ATUs. Up to now certain administrative-territorial organization matters are defined by ***the Order of Presidium of Supreme Council of Ukrainian Soviet Social Republic “On the order of solving the administrative-territorial organization issues in Ukrainian SSR” of March 12, 1981 #1654-X***, although most of ATU creation and elimination issues are impossible to resolve according to this order, because its norms concerning these issues contradict the Constitution of Ukraine.

Part of issues regarding certain administrative-territorial organization elements (limits of administrative-territorial formations) are regulated by the ***Land Code of Ukraine of October 25, 2001, # 2768-III***.

## 3. *The Law of Ukraine On Self-Government in Ukraine (1997)*

The main law in the sphere of local self government in Ukraine that sets forth principles of organization and functioning, the legal status and liabilities of the respective bodies and officials in local government.

The territorial hromada is established as the primary unit of local self-government and defined as the community of inhabitants of a given village, township or city which constitutes an independent administrative-territorial unit. Article 1 also establishes the local council as the representative body of local self-government, with the authority “to represent the interests of communities and make decisions on their behalf.”

The law determines the basic principles of the activity of local self-governmental bodies, but at the same time, does not determine the ways of achievement and provision of the real independence of territorial communities. The “article 4” of the aforementioned law determines the basic principles of local self-government to include the legal, organizational and financial independence of it. At the same time, this law does not determine the concrete scopes and forms of independence, mechanisms and instruments of its realization and provision.

The English translation of the Law can be downloaded here: <http://iupdp.org/files/SELF-GOVERNMENT.pdf>

**4. *The Law of Ukraine On Ratification of the European Charter of the Local Self-Government (1997)***

The law contributed to the persistence of regional development and adoption of a number of further laws in this sphere:

**5. *The Law of Ukraine on Local State Administrations (1999)***

The law defines the competences of local state administration, the order of cooperation with local self government bodies, territorial units of the central executive bodies.

**6. *The Law of Ukraine on the Status of Deputies of Local Councils (2002)***

The law defines the status of deputies, their rights and obligations, main features of activities in the council and community.

**7. *The Law of Ukraine on Service in Institutions of Local Self Government (2001)***

The law regulates the legal status of civil servants in the system of local self government bodies, their career development, social benefits, and pension.

**8. *The Law of Ukraine on Associations of Local Self-government Bodies (2009)***

The law established the process of registration of associations of bodies of local self government, their status and principles of consultations with state executive authorities.

There are also a number of “niche” laws that to some extent regulate certain activities of bodies of local self government. These are the Law of Ukraine On Foundations of Urban Planning, the Land Code of Ukraine (2001), the Law of Ukraine on Promoting Regional Development (2005), Tax Code, Budget Code, etc.

This abundance of legislation creates an unmanageable and inefficient system of government that is one of the causes of massive disproportion in social and economic development of regions of Ukraine. Incoherence of the current legislation leads to numerous conflicts between different levels of government both horizontally and vertically, adds to the tension in relationships between executive authorities and bodies of local self-government.

Excessive centralization of state powers has a negative impact on the development of regions. Self-government bodies remain dependent and subordinate to the state executive bodies. Duplication of authorities and competition in competence of local state administrations and local councils fosters conflicts and restrains effective regional development.

## 2. LOCAL SELF GOVERNMENT REFORM PROCESS, 2008-2011

1. ***Decree by the Cabinet of Ministers of Ukraine of July 29, 2009, # 900-p “On the Approval of Local Self-Government Reform Concept”.***

The Concept was developed by the Ministry of Regional Development (Minregionbud) with the participation of local and international experts and received a positive feedback from the Council of Europe’s experts.

The local self-government reform concept defined the principles of powers’ delineation between local self-government and local executive power bodies. It foresaw the stages of the reform process and resources to be allocated.

2. ***Decree by the Cabinet of Ministers of Ukraine of Dec. 02, 2009, # 1456-p “On the Approval of Action Plan on Implementation of the Local Self-Government Reform Concept”.***

The Action Plan defined the deadlines for preparation of the necessary legal acts. According to the Action Plan Minregionbud developed draft laws “On Administrative and Territorial System”, “On Local Self Government”, “On Local State Administrations”, and draft law on Amendments to the Constitution of Ukraine.

3. ***Decree by the Cabinet of Ministers of Ukraine of 08.04.2009, # 385-p “On the Approval of the Concept of Development of the Educational System for Civil Servants of Local Self-Government Bodies and Deputies of Local Councils”.***

4. ***Minregionbud developed a project of **Concept of Administrative and Territorial Reform**, which was in line with the adopted Local Self-Government Reform Concept, and approved of the Methodology for modelling “hromadas” (administrative and territorial units) in line with the Concept. Practically all Oblasts performed the modelling and submitted the lists of new ATUs and their maps.***

5. ***The new government starting from 2010 neither abolished nor accomplished the Action Plans, adopted by the previous government. Due to structural redesign of the Ministry the practical work on the local self government reform was suspended.***

6. ***The Verkhovna Rada of Ukraine adopted Law of Ukraine of 07.09.2010, # 2500-VI “On Amending the Law on the Capital of Ukraine – City-Hero Kyiv” initiated by the Government.***

The law restricted the local self government in the capital of Ukraine: the mayor was no longer the head of the executive body, rayon councils in the city were abolished, there were no local elections in Kyiv in 2010.

This step proved that very often reforms in Ukraine are dictated by political expediency, not objective reasoning.

7. The Cabinet of Ministers of Ukraine prepared the draft Law of Ukraine “**On Local Referendums**” which passed the first hearing in the Parliament on 19.04.2011.
8. **Decree by the Cabinet of Ministers of Ukraine of 28.11.2010, # 1198-p “On the Approval of the Concept of Development of the Educational System for Civil Servants of Local Self-Government Bodies and Deputies of Local Councils”**. The previous Concept was not abolished.
9. The President of Ukraine during 2011 has taken the lead in articulating the acute need for reform of local self government in Ukraine, e.g. **the Program of Economic Reforms 2010-2014**, the President’s speech at the International Municipal Hearings on 1.11.2011, etc.
10. In 2011 Minregionbud resumed preparation of conceptual documents in the sphere of local self government reform and administrative and territorial system reform. In December 2011 **draft project of the Concept (see Annex 1)** was disseminated among the leading associations. The draft Decree of the Cabinet of Ministers that accompanies the draft concept presupposes abolishment of the previous Concept of 2009.

The draft project of the Concept was assessed by the Association of Ukrainian Cities as rather vague and the one that does not contradict the provisions of the previous concept of the Minregionbud or the Concept of the Association.

**The last statement of the new Concept of Minregionbud is very important, as for the first time the Ministry clearly articulates: “International technical and financial assistance may be also engaged for realization of the reform”.**

Additionally to the reform process, launched and coordinated by state authorities, there is a number of draft laws and concepts of reform developed by other stakeholders (associations, think tanks, etc.).

Just to name a few:

1. Concept of Public Administration Reform in Ukraine, developed by the Centre for Political and Legal Reforms, 2005.
2. White Paper on Fiscal Decentralization in Ukraine in the Context of Local Government Reform, developed by the International Center for Policy Studies and funded by CIDA, 2006.
3. White Paper on the Reform of Local Self Government in Ukraine, developed by the International Center for Policy Studies , 2008.
4. Project Legislation on the Territorial System Reform and Local Self Government Reform in Ukraine, developed by the Institute of Civil Society and funded by the Renaissance Foundation in Ukraine, 2009.
5. **Concept of Territorial Reform in Ukraine**, developed by the **Association of Local Authorities**, 2011. (Developed on initiative of the former Minister Mr. Tykhonov, who used to be the President and Honourable President of the Association for many years).

6. **Concept of the Reform Strategy of Local Self Government in Ukraine**, developed by the **Association of Ukrainian Cities, 2011** (See [Annex 2](#)). The Concept was developed on initiative of the former Minister Mr. Tykhonov, since his dismissal has not been revised or considered for further implementation.
7. **Concept of Reform of Local Self Government in Ukraine in the Context of Constitutional Reform (Based on the Experience of the Republic of Poland)**, developed by the International Civic Organization “Ukraine-Poland-Germany”

However, despite such a variety of draft concepts, there is no unified vision of the reform process that could meet expectations of regions and be supported at the national level. The concept developed by the Minregionbud is hard to be accepted by regional authorities as it is perceived rather as an imposed and top-down reform. The concepts of reforms developed by associations or think tanks have no support of influential political figures that could push them at the national level.

It is highly important to find a balance of interests at the national and regional level. Moreover, it is ultimately necessary to combine the self government reform with the **administrative and territorial reform**, as the current state of ATUs (lack of human and financial resources) will not allow them to be self sufficient in new conditions. So such a comprehensive reform without denying the unitary setup of Ukraine should efficiently organize the current system of administrative territorial units, rationalize their boundaries, and guarantee development of self-sufficient local communities.

### **3. STAKEHOLDERS MAPPING**

#### **3.1. State Institutions**

- **The President and the Presidential Administration** formally have a partial legislative role, but in the current political context it is the main body in the preparation and enactment of all political decisions. Moreover, the President has a strong influence in the regions through the appointment of heads of Oblast and Rayon Administrations. Despite the lack of real actions till now, the President (according to forecasts of many political analysts) will have to become an avid supporter of the local self government reform due to the evident political momentum in this sphere, very low rating of the ruling party before the Parliament elections 2012, and the need to implement the announced reforms.

Advisory bodies subordinate to the President:

**State Foundation for Local Self-Government in Ukraine** under the President of Ukraine, <http://www.municipal.gov.ua/> was created in 1992. Its mission is to support the local self government reform developing the legal base and methodological recommendations.

According to the Presidential Decree N° 533/2010 of 9 April 2010 **the Council of Regions** was created. This advisory board is to deal with the preparation of local government, administrative and territorial reforms in Ukraine.

- **The Ministry for Regional Development and Construction, Housing and Communal Services (Minregionbud)**, <http://www.minregionbud.gov.ua/>. The Ministry for Regional Development and Construction used to be the key institution in charge of decentralization and the regional policy reform agenda. In December 2010 it was merged with the Ministry of Housing and Communal Services. The re-organization of the Ministry was a lengthy process. Final decisions regarding the mandate and management were finalized only in June 2011. Since that time a slow but steady return to the strategic documents developed by the previous government has been observed. Minregionbud has the responsibility for local self-government issues and territorial organization of power. The issue of regional policy was transferred to **the Ministry of Economic Development and Trade**.
- **The Verkhovna Rada of Ukraine (Parliament)** is one of the most important actors in the reform process. Given the fact that the future elections will be conducted on the new legislation basis (50% under party lists and 50% under constituencies), all the political parties have to gain support locally. So local self government reform is sure to be one of the most important topics on the political agenda. At the same time, **the Parliamentary Committee on State Building and Local Self-Government** retains a consistent interest in the reform process and initiates various activities to accelerate it.

### 3.2. Associations

- Association of Cities of Ukraine, <http://www.auc.org.ua/en>
- Association of Small Towns of Ukraine, <http://astu.com.ua/>
- Association of Village and Settlement Councils of Ukraine, <http://vassr.org/>
- Ukrainian Association of Rayon and Oblast Councils, <http://alau.com.ua/> (See **Annex 3** for more details on each association)

All these associations uniting local self-governing bodies work directly with municipalities, mayors, and village heads. The Association of Cities of Ukraine, uniting practically all the cities and having branches in all 25 regions of Ukraine, has proved to be a powerful platform for discussion and a strong driver in advocating the local self government reform process. Compared to this association, the others are often perceived as instruments for brand promotion of their leaders, and in reality have much less impact on decision making and public policy reform process.

However, while promoting the self government reform together with the administrative and territorial reform it is vitally important to cooperate with the Ukrainian Association of Rayon and Oblast Councils that broadly represents interests of smaller communities at the rayon level. Contact persons within the Association could be Mr **Yevgen Udod**, Head of the

Dnipropetrovsk Oblast Council, member of the board of the Association, and Mr **Vyacheslav Negoda**, Director of the Department of Regional Policy and Local Self Government of the Cabinet of Ministers, executive director of the Association 2001-2006.

At the same time, political aspect is to be considered while negotiating with the Ukrainian Association of Rayon and Oblast Councils. The latest elections to Rayon and Oblast councils in 2010 were conducted on a proportional basis (i.e. closed party lists). That practically implies that these councils represent mainly the interests of political parties rather than those of local communities.

### **3.3. Think Tanks**

- Center of Political and Legal Reforms, <http://www.pravo.org.ua/> (I. Koliushko)
- Institute of Municipal Development, <http://www.mdi.org.ua/>
- Institute of Civil Society (A.Tkachuk)
- Institute of Urban Development, <http://www.mista.in.ua/>
- International Centre for Policy Studies (ICPS), <http://www.icps.com.ua/>
- Center for Local Self Government Studies, Lviv, <http://www.cdms.org.ua/>
- The Institute for Budgetary and Socio-Economic Research (IBSER), [www.ibser.org.ua](http://www.ibser.org.ua)

Think tanks play an important role in building up expertise on decentralization and local initiatives. They are contributing substantially to the development of strategic documents on decentralization and reforms of local self-government and administrative-territorial set up. In particular, the Centre of Political and Legal Reforms (I.Koliushko), the Institute of Municipal Development (I. Slobodenyuk) and the Institute of Civil Society (A.Tkachuk) are regularly involved in designing and commenting upon policy documents and draft laws, analytical studies and advocacy of reforms. The ICPS has conducted a number of studies on fiscal decentralization, the IBSER is implementing project “Municipal Finance Strengthening Initiative” (MFSI) funded by USAID.

### **3.4. Educational Institutions**

- National Academy of Public Administration, <http://www.academy.gov.ua/>
- National Academy of Municipal Administration, <http://amu.edu.ua/>

Educational institutions play an important role in the developmental capacity of local authorities and serve as the preservers for existing knowledge on best practice. There are two main educational institutions that are involved in the training, re-training and professional development of civil servants and local government personnel: The National Academy of Public Administration, under the Office of the President of Ukraine (NAPA) together with four Regional Institutes, which serve as branches, and the Academy of Municipal Administration.



## 4. DONORS MAPPING

Donor organisations such as SDC, USAID, UNDP, CIDA, SIDA, and EU actively support the local self government reform in Ukraine, implementing projects at various levels (national, oblast and local) and on various aspects of decentralisation. While there is a great variety of projects, supported by different donors, there is still a lack of coordination and experience exchange.

Donor	Project	Comments
SDC	<p><a href="#">Decentralisation Support in Ukraine DESPRO</a> (2007-2013)</p> <p>DESPRO facilitates a multi-level policy dialogue between the national and lower levels of government supporting platforms for discussing the current legal framework and reform proposals, as well as providing recommendations that derive from DESPRO's practical experience.</p> <p>In 2010 the Expert and Advisory Board (EAB) was created consisting of leading experts in DLG and regional policy issues. The goal of the Advisory Board is to provide expert support to DESPRO operation, produce analytical papers on current policy developments in the fields of regional policy, local self-governance and decentralisation, representation of civil society interests in the work of DESPRO, and ensure the outreach of project activities.</p>	<p>DesPro has a high level of recognition at the national and regional level, through its efficient work it has gained support of regional leaders. DesPro's know-how, expertise, and connections with the key stakeholders as well as leading experts could be effectively used as a platform for a new project.</p>
USAID	<p><a href="#">Municipal Budget Reform</a> (MBR) (2005-2008)</p> <p>The MBR project's 3-year successful implementation facilitated Program Performance Budgeting (PPB) at the national and local levels aimed at ensuring the rational use of budget funds, the improvement of the quality of public service provision and transparency in resource distribution and decision-making.</p>	
	<p><a href="#">Municipal Finance Strengthening Initiative</a> (MFSI) (2008 – 2011)</p> <p>The main purpose of the Project is to develop a municipal capacity to plan and finance the municipal projects development, in particular, municipal infrastructure through its own-source revenues increase and alternative financing sources attraction.</p>	
	<p><a href="#">Development Initiative for Advocating Local Governance in</a></p>	<p>The operation of the Project is</p>

	<p><a href="#">Ukraine Project (DIALOGUE)</a> (2010-2014)</p> <p>DIALOGUE is expected to achieve the following objectives:</p> <ul style="list-style-type: none"> <li>• Improved legal framework for effective and transparent local self-governance.</li> <li>• Effective policy dialogue between local governments and their partners at the national and regional levels.</li> <li>• Increased public support of local government reforms.</li> <li>• Improved legal culture and effectiveness of local government bodies.</li> </ul>	<p>based on the capacities of the Association of Ukrainian Cities, <a href="http://www.auc.org.ua">www.auc.org.ua</a></p>
<b>CIDA</b>	<p><a href="#">Municipal Local Economic Development</a> (2010 – 2015), \$ 14,147,560</p> <p>This project aims to contribute to improved planning and delivery of selected services that foster and support economic growth and development in pilot cities, with the collaboration of enabling institutions that support the achievements and dissemination of results. The project is also working in ten cities in the regions of Lviv and Dnipropetrovsk to implement pilots for practical improvements in municipal economic planning.</p>	
	<p><a href="#">Regional Governance and Development</a> (2005 – 2012), \$ 7,650,814</p> <p>The project assists the Government of Ukraine to develop, pilot and up-scale a model regional development process that utilizes the capacities of a mobilized civil society (men, women and youth) to formulate and implement regional-level development strategies. At the national level, the project supports the Ukrainian government to design and implement regional development policy. At the regional level, it assists regional administrations to design and implement regional development strategies with business and public participation.</p>	
	<p><a href="#">Ukrainian Civil Service Human Resources Management Reform</a> (UCS-HRM) Project (2008-201), 4 800 000 Canadian dollars.</p> <p>The project goal is development of an accountable and transparent civil service that is in line with European (SIGMA/OECD) norms through targeted reforms of the central government human resources management system.</p> <p>Key components: Leadership Development and Training; Supporting a Professional and Sustainable Civil Service;</p>	

	Strengthening Governance and Infrastructure.	
<b>SIDA</b>	<p><a href="#">Strengthening Local Self Government</a> (2001-2004), 8 460 000 SEK</p> <p>The project included eight different modalities of change management that all together were aimed at promoting a model for merging municipalities. The size of municipalities is too small in Ukraine and this is considered to hamper a decentralisation process in the country. The overarching objective of the project to achieve an amalgamation between municipalities was not reached though the lessons learnt from the exercise became a building block for the actual reform agenda in the country.</p>	
	<p><a href="#">Strengthening Local Democracy and Support for Local Government Reforms in Ukraine</a> (2011-2014), 1.5 million Euro</p> <p>The Program intends to provide policy guidance, legal assistance and technical expertise to the Ukrainian authorities in the area of the Local Self-Government Reform with the aim to promote good governance and a more effective provision of services to the benefit of the Ukrainian citizens.</p> <p>The Programme has four components:</p> <ol style="list-style-type: none"> <li>1. Structural and institutional Local Self-Government Reform.</li> <li>2. Fiscal decentralisation.</li> <li>3. Contribution to the implementation of the State Programme for Reform and Development of the Housing and Municipal Economy of Ukraine for 2009-2014.</li> <li>4. Strengthening public and stakeholders' awareness of Local Self-Government Reform.</li> </ol>	<p>One of the most comprehensive programs in the DLG sphere that unites numerous components and is staffed with leading international experts (Gerard MARCOU, Karin RUDEBECK, Pawel SWIANIEWICZ, Paul HILDRETH, Robert HERTZOG, Holger PYNDT, Paul).</p> <p>Cooperation and coordination of actions with the program is to be considered.</p> <p>(<a href="#">Annex 4</a> contains the graphical overview of components of the Project)</p>
<b>EU</b>	<p><a href="#">Support to Sustainable Regional Development in Ukraine</a> (2008-2011), € 5,994,975.00</p> <p>Project Purposes:</p>	

	<ol style="list-style-type: none"> <li>1. To strengthen the capacity of Ukrainian authorities in policy formulation and decision making process for sustainable regional development;</li> <li>2. To establish a national financial instrument for regional development;</li> <li>3. To assist the Ukrainian authorities in implementing the plan of activities for sustainable regional development (Action Plan)</li> </ol> <p>Location: Kyiv and all over Ukraine with pilot regions Vinnytsia, Crimea and Khmelnytsky</p>	
<b>UNDP</b>	<p><a href="#">Support to Civil Service Reform in Ukraine</a> (2007 – 2010), USD 1 340 000 (Ireland)</p> <p>The Project's overall objective is to contribute to the Ukrainian Government reform programme towards a more transparent and efficient public administration, operating on the basis of EU oriented principles, as described in the Civil Service Development Programme adopted in June 2004. More specifically, it will contribute to the adoption of legislation and administrative regulations supporting these new policy developments and to building the capacity of the MDCS in fulfilling its mandate, in particular in its training and development activities.</p>	
	<p><a href="#">Community Based Approach to Local Development</a> (2007-2011), Euro 13.3 million (EU)</p> <p>The Project aims at increasing self-consciousness and creating self-sustainability of communities by promoting dialogue among its members, facilitating social activity, shaping a collectively shared vision of the future and implementing joint initiatives on community development.</p>	
	<p><a href="#">Strengthening Local Governance and Community-led Development in Crimea</a> (2008 – 2011), \$ 3,300,000</p> <p>The project is a multi-partner initiative of the UNDP aimed at improving local self-governance and supporting community-led development in the Autonomous Republic of Crimea. The project aims to: 1) assist in the decentralization process by devolving powers and resources from central and state authorities to regional and local authorities; 2) build the capacities of regional, district and municipal level authorities to engage citizens in the planning, budgeting and delivery of high-quality public services; and 3) mobilize communities to identify, prioritize and implement development projects.</p>	
	<p><a href="#">Municipal Governance and Sustainable Development Programme</a> (2004-2012) (SDC, CIDA, Royal Norwegian</p>	

	<p>Embassy in Ukraine)</p> <p>The Project aims at building capacity for political participation of the local communities and municipalities into decision making process and using this capacity for multi-stakeholders cooperation and multi-sectoral interventions geared towards strengthening of urban/ social/ economic/ environmental governance ultimately leading to sustainable development.</p>	
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## 5. CONCLUSIONS

The current state system in Ukraine remains highly centralized. Despite numerous declarations and reform concepts developed in the last years, neither the leadership of the country (both at the national and regional levels) nor expert community seem to have a unified systematic vision of the reform process in the sphere of local self government. At the same time, decentralization in Ukraine remains high on the agenda. It can be viewed both as a tool and a goal of a public administration reform, which requires re-distribution of tasks, competences, and resources at central, regional, and local levels. In particular, this means the transfer of more responsibilities, competencies, and resources from the state to the local self-government authorities and community based organizations.

The findings of this paper prove the utmost necessity to combine the implementation of the local self governance reform with the administrative and territorial reform that presupposes optimization of the number and composition of administrative territorial units, which is to enhance their capacity and self sufficiency. Further analysis should clarify whether change of Constitution is needed for implementation of these reforms.

The preliminary analysis of the current state of things allows identifying the following **key players** in the reform process:

- President of Ukraine and the Presidential Administration (also represented through the State Foundation for Local Self-Government in Ukraine)
- Minregionbud
- Association of Ukrainian Cities (potentially Ukrainian Association of Rayon and Oblast Councils)
- Expert community (leading think tanks)
- Donnor community (DesPro, USAID, CoE/SIDA)

The reform is **likely to be supported** by key political figures both at the national and regional levels due to a favorable combination of factors:

1. The reform is **high on the agenda** and is supported by the President who is currently the main decision maker in the country.

2. The political situation in Ukraine is very complex, especially due to the fact of the coming parliamentary elections and the lowering level of support of the ruling party by the population. This requires not only declarations, but also active actions from the current political leadership.
3. Support and promotion of the reform by Mr. Groysman, a new generation leader who is a highly respected and quite independent political figure both at the regional and national level. E.g., he was the only mayor that won local elections in 2010 with unprecedentedly high support of voters (about 80%). In 2009 he was offered a post of the Vice-Minister of Regional Development, but refused this position justifying his decision by the will to serve his community that entrusted him with the post of the mayor.

The reform is **likely to be opposed** by middle-tier officials both at the national and regional level, responsible for redistribution of funds (Ministry of Finance, State Treasury, profile ministries and state service agencies). The administrative and territorial reform is likely to be opposed by population of smaller rural communities that will have to be merged with bigger ones for optimization of the system of ATUs.

Practically all regional players admit that the reform should be initiated bottom-up, and **Association of Ukrainian Cities** could become an optimal platform for the promotion of the reform. Simultaneous realization of the Administrative and Territorial Reform is of utmost need and requires coordination of efforts with the **Ukrainian Association of Rayon and Oblast Councils**. However, the support by the **international experts and donor community** is highly needed for legitimization (raising the profile) of the reform initiated at the regional level, which is also admitted by the Ministry (see the Concept of Minregionbud in [Annex 1](#)).

The efforts of the main international donors have been pinpointed only to certain issues of the decentralization process. No real coordination of actions has been observed. **DesPro** being one of the leading projects in the field of decentralization and local governance has so far concentrated mainly on local actions, its more active participation in the policy dialog is highly recommended.

**USAID**, though working closely with the Association of Ukrainian Cities, is considered by some local analysts as a purely formalistic initiative. Cooperation or efficient coordination of actions with the USAID project DIALOGUE is to be considered.

The **CoE/SIDA** project “Strengthening Local Democracy and Support for Local Government Reforms in Ukraine” is currently one of the most comprehensive projects aimed at reform of local self government. However, according to the feedback of some experts, the project concentrates its efforts on the cooperation with the Minregionbud mainly, not with the practitioners of the local self government, which might again endanger implementation of the reform through opposition at the local level.

The preliminary findings of this report indicate the utmost necessity of closer cooperation within the donor community as well as intensification of the policy dialog for development and promotion of the unified concept of the local self government reform in Ukraine.

# **ANNEX 1 DRAFT CONCEPT OF REFORM OF LOCAL SELF-GOVERNMENT AND TERRITORIAL ORGANIZATION OF POWER IN UKRAINE BY MINREGIONBUD**

Thursday, December 22, 2011

**DRAFT**

**Concept**

## **of Reform of Local Self-Government and Territorial Organization of Power in Ukraine**

The Concept of Reform of Local Self-Government and Territorial Organization of Power in Ukraine (hereinafter – “the Concept”) has been developed with due regard for requirements of the European Charter on Local Self-Government, provisions of the Program of Economic Reforms for 2010-2014 “Wealthy Community, Competitive Economics, Effective State” aiming at a quality increase of local self-government bodies’ capacity to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of local population.

### **1. A Problem to Be Solved**

The need to reform local self-government and territorial organization of authorities derives from a number of reasons.

The existing local self-government system has been ineffective in fulfilling its mission formulated by the Constitution of Ukraine – entitling territorial communities to independent manner of tackling issues of local significance.

A significantly split nature of territorial communities, lack of their access to development, population ageing, and a considerable outflow of economically active groups of people pose increasingly complex problems in relation to providing members of communities, primarily, those of villages and townships, with high-quality services responsibility for which lies with local self-government bodies.

More than a half of 12 thousand existing territorial communities has population less than 3 thousand people. Out of this number, 4,809 rural councils have less than one thousand residents. The population of 1,129 local communities numbers less than 500 people. Most of these councils have no executive bodies of their local councils. The need of 5,419 local budgets for subsidies accounts for over 70%. 483 territorial communities are funded from the state budget by 90%.

The need for constant support to low-populated communities with the use of the equalization transfer system being implemented through regional budgets impedes the development of small towns which are potential points of economic growth.

Objective processes of Ukraine's development will generate further acceleration of urbanization rates. This causes an increase of urban population, expansion of towns, and makes it more difficult to provide town residents with relevant infrastructure and social services.

All this will require broader powers to urban representative and executive self-government, on the one hand, and implementation of effective mechanism of control over rational and efficient use of local resources by territorial communities, from the other hand.

Considerable improvement must also affect the territorial organization of power, with reforms to be aiming at increased efficiency in management of social development within the geographical context.

The existing system is much too unmanageable, in need of considerable funds for maintenance; it is excessively centralized, and susceptible of overlapping functions intrinsic to local self-government bodies. It is unadjusted to current methods of providing administrative services, specifically, applying communication and information technologies.

## **2. Goal and Implementation Period of the Concept**

The Reform of local self-government and territorial organization of power is targeted at increasing the capacity of local self-government bodies to create conditions for development of territorial communities and their associations as well as ensuring by local executives that residents of these communities have access to administrative, social and other services.

Ways of achieving this goal provide for: creating conditions for voluntary integration of territorial communities which create competent local self-government bodies capable to implement legally specified full and exclusive their own and delegated powers; non-admitting doubled powers, functions and objectives of different levels of local self-government bodies; ensuring local self-government bodies' and their officials' openness and accountability to the territorial communities; developing mechanisms of control over decent quality of administrative, social and other legally specified services of relevant standards to population; transferring from local executives and territorial bodies of the central executive authorities to local self-government functions tightly referring to citizens' needs; creating sufficient material, financial and organizational conditions for meeting objectives by local self-government bodies; reforming territorial powers according to a principle of appropriate provision of people with administrative and social services, which will reduce disproportions in people's access to these services and their quality.

The Concept is supposed to be implemented in several phases.

Phase one - preparatory (2012), which provides for:

- developing drafts of legislative documents in establishing a tool for voluntary integration of territorial communities, state support to such integration, an integrated community status;
- determining full and exclusive powers, rights and responsibility of local self-government bodies for delivering services to residents of relevant territorial communities;



- standardization of services that are delivered to residents within their territorial communities;
- splitting powers among local self-government bodies of different levels, local executives, territorial bodies of the central local executive authorities.

Phase two – establishing socio-political base of the reform and its implementation (2013 - 2015), which provides for:

- comprehensive awareness raising;
- establishing integrated territorial communities and state support to creating their infrastructural base;
- generating communal property of integrated territorial communities;
- adopting laws on local self-government, on local state administrations, amending the budget law to raise opportunities for generation of local development budgets' own base;
- standardization (certification) of administrative services delivered by local executive authorities and local self-government bodies;
- establishing a new system of territorial authorities;
- nominating authorized regions' and districts' local self-government bodies;
- establishing an institutional framework for creating executive bodies of regional and district councils and distributing powers among them and relevant local state administrations;
- conducting local elections taking into account the renewed system of local self-government bodies and territorial authorities.

A solution to the problem is based on regulations of the Constitution of Ukraine, the European Charter on Local Self-Governments and is guided by the principles of legality and rule of law, partnership between state and local self-government, nation-wide functioning of local self-government, legal, organizational and material autonomy of local self-government; accountability and controllability of local self-government bodies and officials to the territorial community and executive bodies within the framework of the delegated functions, and subsidiarity.

Main requirements for the reform of the local self-government system

- integrated territorial communities to be established on a voluntary basis according to a legally specified procedure in coordination with their own self-government bodies, including councils' executive authorities should make a foundation of a new local self-government system. Population centers which are not classified as territorial communities may form population self-organization entities that enter a self-government system of a relevant territorial community;

- absence of other territorial communities within one territorial community; identifying distinct boundaries of every territorial community; nation-wide functioning of local self-government bodies' jurisdiction within relevant administrative and territorial units;
- establishing full and exhaustive mandatory powers of local self-government bodies at a basic, district and regional level while applying a compulsory subsidiarity principle;
- powers of local self-government bodies should be established after determining powers at every level of local self-government;
- powers to local self-government can be delegated by the state provided representative local self-government bodies and their subordinate executive authorities created at a relevant level;
- whenever powers are being delegated to local self-government bodies, it is necessary to take into account their capability to implement these powers; sufficient funding of local self-government should be ensured;
- legal specification of standards of services (administrative and social) that are provided at each local self-government level, establishment of indicators and evaluation criteria for the quality of these services;
- providing, on behalf of local and the central executive authorities, an effective and procedurally determined system of control over local self-government bodies' observance of the Constitution and laws of Ukraine;
- creating a clear system of control over self-government bodies' activities on behalf of residents of territorial communities and their associations;

Main requirements for reforming the power territorial organization system:

- local state administrations will function in Autonomous Republic of Crimea, the cities of Kiev and Sevastopol and in the regions. These administrations will be delegated powers to exercise control over legality of local self-government bodies' activities at a relevant territory, to coordinate activity of territorial bodies of the central executive authorities; other powers of local state administrations will be determined based on subsidiarity principle;
- territorial bodies of the central executive authorities will perform control over enforcement of the Ukrainian legislation at a relevant territory, provide administrative services to the public and legal entities, with a major focus on the type, manner and access to the services, constantly monitor efforts to reduce disproportions in access to services at a relevant territory;
- generation and structure of territorial bodies of the central executive authorities should be targeted at maximum access of the public and legal entities to services delivered by other bodies.

The expected reform outputs are:

- creating territorial communities in a position and able to, either independently or through local self-government bodies, tackle problems of local significance;
- creating conditions for economic and social development of territorial communities and their associations;
- clear split of powers among local self-government bodies, local executive authorities and territorial bodies of the central executive authorities;
- organizational and material autonomy of territorial communities and local self-government bodies, approximation of the quality of their activity to the principles of the European Charter on Local Self-Government;
- approximating administrative services to residents of territorial communities and their associations, increasing the quality of these services;
- establishing, on behalf of the state and the public, a system of control over the services provision; reducing disproportions in access to services for various territorial communities.

#### **5. Amount of Financial, Logistic and Labor Resources**

Reforms of local self-government and territorial organization of power are suggested to be carried out at the expense of state and local budgets within the limits of assignments that relevant budgets will provide for a relevant year.

International technical and financial assistance may be also engaged in the reform.

## **ANNEX 2. DRAFT CONCEPT OF THE STRATEGY OF LOCAL SELF-GOVERNMENT REFORM IN UKRAINE (PREPARED BY THE ASSOCIATION OF UKRAINIAN CITIES, 2011)**

*Draft*

### **CONCEPT OF THE STRATEGY OF LOCAL SELF-GOVERNMENT REFORM IN UKRAINE**

#### *I. Preface*

Ukraine is currently being faced with an urgent need for a wide-scale reform of local self-government and regulation of the administrative and territorial system, which was repeatedly emphasized by President of Ukraine V. Yanukovich and new members of the Ukrainian Government headed by M. Azarov. Undoubtedly, successful implementation of the local self-government reform will promote Ukraine's more effective pursuance of the European integration policy, development of cooperation with European institutions, primarily, with the Council of Europe and the EU.

Joining the Council of Europe on November 9, 1995, Ukraine undertook a range of commitments set out in Opinion No. 190 (1995) of the Parliamentary Assembly of the Council of Europe. According to these commitments, on July 15, 1997, Verkhovna Rada (Parliament) of Ukraine ratified the European Charter of Local Self-Government (ECLSG) in full version.

In pursuance with the European concept specified in part one Article 3 of the European Charter, local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population. This complies with the country's 800-year historical local self-government tradition specifically imprinted in the positive experiences of the Magdeburg right (XIV century – 1834) and county self-government (1864-1917) on the Ukrainian lands forming a part of the Russian Empire.

However, regardless of all state measures aiming at consolidation and development of local self-government, vast majority of around 12 thousand of territorial communities of Ukraine, that is territorial communities of villages, townships and district-level towns, because of their disperse arrangement and an excessively poor financial base are incapable to fulfill all powers of local self-government. This results in low-quality public services provided to local population, depopulation of rural areas (1% of annual reduction), degradation of villages and, in addition, overburden imposed on the state budget, which is caused by the necessity to also finance activities of self-government bodies.

Only region-level towns' self-government can be considered as relatively capable since it is based on a more or less sufficient financial, infrastructural and personnel resource background.

Current state leadership supports implementation of the European commitments of Ukraine. V. Yanukovich's election program "Ukraine – for the people" (section 4 "From the power of officials to the power of people") says that "local self-government must become a reliable and strong basis for the power of people. Expansion of local councils' powers, maximal removal of the bureaucratic apparatus from solving issues of territorial communities' development is of major importance. I support power decentralization, and reform of inter-budgetary relations in favor of local self-government."

Decree of the President of Ukraine No. 355/2010 dated March 17, 2010 created the Committee for Economic Reforms aimed at implementing systemic economic reforms to find ways out from the financial and economic crisis, to ensure sustainable economic development of Ukraine as a precondition for improving well-being of the country's population. The Committee specifically includes Mr. V. Tykhonov, Regional Economic Development working group headed by Deputy Prime-Minister of Ukraine, Minister of Regional Development, Construction and Housing and Utilities Economy of Ukraine. This working group that has to ensure preparation and implementation of main actions in reforming the local self-government system, housing and utilities economy, inter-budgetary relations and local finance reform also consists of leading experts of the Council of Europe. Subgroups "Reform of Housing and Utilities Economy" and "Regional Development and Reform of Inter-Budgetary Relations" have been created within the specified working group.

At the same time, Decree of the President of Ukraine No. 533/2010 dated April 9, 2010 established a Council of Regions that functions as a consulting and advisory body under the President of Ukraine. The following are main objectives of the Council of Regions:

- holding consultations on implementing the administrative and territorial reform, local self-government reform, improving the mechanism and the procedure of public administration, and implementing the regional personnel policy;
- analyzing the legislation of Ukraine in issues of economic development, local self-government, territorial organization of power and preparing proposals on their improvement;
- ensuring a possibility to study public opinion on presidential initiatives, drafts of the most important acts of the President of Ukraine, draft laws on regional development, local self-government and territorial organization of power;
- studying and generalizing foreign experience on issues of local self-government and implementation of regional policy, working on proposals concerning application of such experience in Ukraine.

As a result of 100 days of V. Yanukovich's presidency, the Program of Economic Reforms for 2010-2014 "Wealthy Community, Competitive Economics, and Effective State" was presented on June 2, 2010. The program was prepared by the Committee for Economic Reforms under the President of Ukraine. The specified Program encompasses a broad variety of economic transformations to be implemented in five directions:

1. Creating basic preconditions for economic growth through maintenance of low inflation, stabilization of state finance and creation of a sustainable financial system.
2. Generating a maximally favorable regime for businesses by reducing the state role in economy, decreasing administrative barriers for businesses, tax system modernization and deepening international economic integration of Ukraine.
3. Modernization of the infrastructure and basic sectors by means of removing long-standing structural problems in energy, mining, oil sectors and the housing and utilities economy, as well as developing transport infrastructure and land market. Transfer from subsidies to self-repayment of production and social service industry.
4. Preserving and developing human and social capital by means of increasing effectiveness and stability of social security, improving the quality and accessibility of education and health care.
5. Raising effectiveness of state management by reforming the state service and executive authorities.

To improve the system of central executive authorities, to remove doubling of their powers, to raise state management effectiveness, the President of Ukraine issued Decree No. 1085/2010 on December 9, 2010. The Decree established a new scheme of organization and interaction of central executive authorities. According to Ukrainian President's and Government leaders' statements, the administrative reform should be implemented both at the regional and local levels, which will have to foster increased effectiveness of state administration and local self-government bodies' activities and a clearer split of powers among them<sup>1</sup>.

*At the same time, a pack of reforms on modernization of state management (including that of the local self-government system) has not been submitted so far as of early 2011, which violates the integrity principle for preparation and implementation of reforms. Simultaneously this imposes a necessity to develop an updated (revised) Local Self-Government Reform Strategy and its Road Map.*

Referring to the experience of capacity building of regional-level towns in the modern Ukraine as well as a relevant positive foreign and historical domestic experience, suggests that capacity of local self-government of all territorial communities in Ukraine may be ensured only when they obtain a sufficient resource potential in financial, infrastructural and personnel respects.

According to positive foreign (e.g. Polish gminas) and historical domestic (volosts in county self-government) experience, building resourcefully self-sufficient, that is capable communities may be possible only on a relevant territorial basis.

Therefore, the task of the Strategy of generating in Ukraine a capable European-style local self-government consists in determination of:

- optimal territorial basis of capable territorial communities;
- optimal self-government system for these territorial communities;
- powers on providing public services, which will be delegated to local self-government bodies of territorial communities;
- resource potential of territorial communities.

Proceeding from the concept of the capable basic level local self-government, it will be possible to determine a concept of local subregional and regional self-government and a concept of relevant state administrations and territorial representations of the central executive authorities.

The following documents should be taken into consideration while developing the specified document: Order of the Cabinet of Ministers of Ukraine No. 1134-r dated September 23, 2009, No. 900 dated July 29, 2009, No. 1456-r dated December 2, 2009, the Law of Ukraine "On the **State Program** of Reform and **Development** of the **Housing** and Utilities **Economy** for 2009-2014", **Program of Economic Reforms** for 2010-2014 "Wealthy Community, Competitive Economics, Effective State", other acts of the President and the Government of Ukraine as well as recommendations of the Council of Europe on development of the National Strategy (Road Map) for Reforming Self-Government of Ukraine for 2010-2013.

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<sup>1</sup> These tasks represent one of the priorities of Council of Europe Program, which explains an urgent need for development of the CE and Ukraine cooperation in the local self-government field.

The Strategy should identify a medium-term reform vision aiming at ensuring an effective local self-government system in compliance with the requirements of the European Charter of Local Self-Government and should cover the following areas:

- institutional reform of local self-government;
- administrative-territorial reform;
- decentralization and delegation of powers;
- financial decentralization;
- state supervision over local self-government bodies' activities;
- integrating the local self-government reform into a more general reform of public administration;
- infrastructure and housing and utility services;
- involvement of citizens, raising public awareness and support to the local self-government reform.

## II. Building Capable Territorial Communities

### *2.1. Optimal territorial grounds for local self-government of territorial communities*

Capable territorial communities are created around populated centers that have been traditionally attractive for the neighboring settlements owing to available job vacancies, markets, health care and educational institutions, temples, etc. Vast majority of such centers had been district centers in the Ukrainian SSR before integration of the districts at the turn of 1950-1960s.

An optimal territorial basis for a basic-level local self-government unit is a territory that can provide any resident's access to services of medical care, fire security, police and school. Estimates confirm it may be ensured within 20-kilometer distance to an administrative center of the territorial community.

During 2009, regional state administrations (excluding Zhytomyr and Autonomous Republic of Crimea) simulated such capable territorial communities at relevant territories with determination of:

- their administrative centers;
- lists of populated centers to be included into each territorial community;
- geographic boundaries of each territorial communities on the map.

According to recent estimates, an expected number of capable territorial communities will form about 1,400 communities (to be approximately reduced 8 times), whereas an average community area will make about 400 km<sup>2</sup>.

### *2.2. Local Self-Government System of Capable Territorial Communities*

Each territorial community, regardless of a number and status of populated centers included into it, should elect a single head, a single council and generate a single council's executive committee. These local self-government bodies should adopt and execute the local budget of the territorial community, manage its communal property and ensure that legally specified services be delivered to the public.

Besides, every populated center making a part of the territorial community (an exception may be only made for the administrative center of a territorial community and a settlement with an amount of population below the established limit) should elect a headperson who will represent the settlement's interests with the executive committee of the territorial community council and the executive committee's interests with the settlement and will ensure document flow between people of his/her settlement and local self-government bodies of the territorial community. Population's self-organization bodies may be also formed at a settlement level.

In addition, administrative centers of territorial communities may accommodate state bodies' offices, namely those of:

- state treasury;

- tax service;
- police;
- fire department;
- sanitary and epidemiological service;
- social security of the population
- veterinary service.

*2.3. Powers on providing public services, which will have to be delegated to local self-government bodies of capable territorial communities*

These powers are:

- secondary and pre-school education;
- emergency call service, primary health care service, disease prevention;
- culture – general programs;
- social aid through territorial centers;
- improvement of the territory;
- housing and utility services;
- public transport;
- road maintenance in settlements;
- civil security.

*2.4. Resource potential of capable territorial communities*

Resource potential of a capable territorial community consists in its territory within administrative boundaries with relevant labor and land resources, real estate sites and infrastructural assets located there.

The council will manage land resources and property within the limits of the territorial community through their selling, renting out, using for local economic development projects which increase local and state budget revenues.

Basic sources of filling the local budget will be local land tax within the community administrative boundaries (both within and outside populated centers) and local real estate tax covering the entire property. The taxes will be regulated by the council within the limits of legally specified rates. Besides, local budgets obtain a portion of individual income taxes from persons working within the community, single tax, and other revenues from local self-government budget filling sources as stipulated by the Budget Code of Ukraine.

The state grants equalization transfers to needy territorial communities, and target subventions for state program activities. A number of capable territorial communities (about 1,400) will enable a direct communication of all local self-government budgets with the state budget of Ukraine.

An infrastructural resource of the territorial community consists of local self-government bodies' accommodations, buildings of educational and health care institutions, establishments of culture, physical culture and social aid, and housing and utilities facilities. With an incomplete infrastructure to meet basic need, the state provides a territorial community with relevant assistance to build the needed facilities.

The staff of eliminated local self-government bodies and local bodies of the state executive authorities will make a resource for building a team of qualified staff for local self-government bodies and local offices of state bodies at the territory of an integrated territorial community. The state will assist territorial communities in skill-upgrading of local self-government staff.

### *III. Establishing Public Power of Subregional (District) and Regional Levels*

#### *3.1. Territorial basis of public power of district and regional levels*

Assuming that locations of delegating the major portion of local self-government powers will be moved closer to consumers of the relevant services – at the level of capable territorial



communities, districts may include 10-20 capable territorial communities to ensure proper engagement of public authorities at a district level.

Such districts may particularly have medical counties resulted from reformation of a relevant sector, as well as scopes of activity of the procuracy, the police, the State Security Service of Ukraine, courts, etc.

An approximate number of reorganized districts is expected to reach 100. A region may include 3-5 such districts.

District administrative centers will be determined in towns dominating a relevant territory, with developed infrastructure of facilities for accommodating health-care and administrative establishments. District centers that will lose their status will become territorial communities. State servants and local self-government staff dismissed in the reorganization process, may be employed with local self government bodies of territorial communities.

A territorial basis of the regional-level public power will be formed with the territories of the Autonomous Republic of Crimea, regions, the cities of Kiev and Sevastopol within the effective administrative boundaries. If there is a need for effective generation of territorial communities or districts and consent from the concerned local self-government bodies, the regional boundaries may be partly changed.

### *3.2. Public power system at the district and regional levels*

The district will form district-level local self-government bodies, including the council, its executive committee and other executive bodies of the council.

The district will also generate a state administration. The district center will accommodate territorial bodies of the central executive authorities.

The region will form region-level local self-government bodies, including the regional council, its executive committee and other executive bodies of the council.

The region will also generate a regional state administration. The regional center will accommodate territorial bodies of the central executive authorities of the regional level, the location of which at the district level will be economically unreasonable.

The public power system at the level of the Autonomous Republic of Crimea will comply with the effective Constitution of the Autonomous Republic of Crimea. Representation of the President of Ukraine functions in the Autonomous Republic of Crimea pursuant to the effective law.

Individual laws will govern formation of local self-government bodies and local state administrations with split functions in the cities of Kiev and Sevastopol.

### *3.3. Powers of public authority bodies at the district and regional levels*

Due to transferring to communities a major portion of public power functions because of expediency and subsidiarity considerations, the main functions of district local self-government should become the following:

- maintaining boarding schools;
- maintaining general hospital premises;
- maintaining other common ownership facilities of the district territorial communities (e.g. district council buildings);
- developing the district infrastructure – first of all, roads of district significance and passenger transport.

The most important functions of the regional local self-government should include the following:

- implementing regional development programs;
- ensuring vocational education and training;
- providing highly specialized medical assistance;

- maintaining other facilities in common ownership of the regional territorial communities (e.g. district council buildings);
- developing the regional infrastructure – first of all, region significance roads, interdistrict and interregional passenger transport.

District and regional councils will approve relevant programs, and, accordingly, district and regional budgets. For their execution, the district and regional councils will form executive committees with specialized divisions.

Local self-government bodies of Kiev and Sevastopol will exercise powers of municipal local self-government bodies pursuant to the Law of Ukraine “On Local Self-Government in Ukraine”.

District and regional, Kiev and Sevastopol municipal state administrations will perform control, supervisory and coordination functions. They will supervise:

- compliance of relevant level local self-government bodies with the Constitution and laws of Ukraine with a right to suspend acts running contrary to the Constitution and the laws and to apply to court;
- conformity of public services with state standards;
- implementation of state programs and target use of state subvention funds;
- efficient use of facilities in state ownership.

In addition, district and regional, Kiev and Sevastopol municipal state administrations will coordinate activities of territorial divisions of the central executive authorities at relevant territories, while regional, Kiev and Sevastopol municipal state administrations will also coordinate activities of the relevant regional state administrations.

#### *3.4. Resource provision of public power bodies at the district and regional levels*

Main sources for filling district and regional budgets and the budget of Sevastopol will be a part of individual income tax collected at a relevant territory, as well as state budget transfers.

Main sources for filling Kiev budget will be local land tax within Kiev administrative boundaries and local real estate tax covering the entire property within the rate limits specified by the law. Besides, Kiev budget is formed with a portion of individual income tax payable by persons working at Kiev territory, single tax, other sources of filling Kiev budget specified by the Budget Code of Ukraine.

Local state administrations and territorial divisions of the central executive authorities at relevant levels will be maintained from the state budget.

#### *IV. Road Map for Ensuring Effective Organization of Public Power at Municipal, District and Regional Levels*

1. To develop and submit to the Cabinet of Ministers of Ukraine:

1) draft laws:

On Sevastopol as a Special Status City.

Ministry of Regional Development and Construction, Ministry of Economics, Ministry of Justice, Ministry of Finance, other concerned central and local executive authorities.

*April, 2011;*

On the Administrative and Territorial System of Ukraine.

Ministry of Regional Development and Construction, Ministry of Economics, Ministry of Justice, Ministry of Finance, other concerned central and local executive authorities with the participation of Ukrainian Nationwide Local Self-Government Bodies' Association "Association of Ukrainian Cities", Association of Village and Township Councils of Ukraine, **Ukrainian Association of Local and Regional Authorities**.

*May, 2011;*

On Local Self-Government in Ukraine (new revision).

Ministry of Regional Development and Construction, Ministry of Economics, Ministry of Justice, Ministry of Finance, National Agency of Ukraine for State Service, other concerned central and local executive authorities with the participation of Ukrainian Nationwide Local Self-Government Bodies' Association "Association of Ukrainian Cities", Association of Village and Township Councils of Ukraine, **Ukrainian Association of Local and Regional Authorities**.

*June, 2011;*

On Local State Administrations (new revision).

Ministry of Regional Development and Construction, Ministry of Economics, Ministry of Justice, Ministry of Finance, National Agency of Ukraine for State Service, other concerned central and local executive authorities with the participation of Ukrainian Nationwide Local Self-Government Bodies' Association "Association of Ukrainian Cities", Association of Village and Township Councils of Ukraine, **Ukrainian Association of Local and Regional Authorities**.

*July, 2011;*

On amending the Constitution of Ukraine regarding establishment of executive authorities of district and regional councils and change of functions of local state administrations (to be further submitted as established in compliance with Article 154 of the Constitution of Ukraine).

Ministry of Regional Development and Construction, Ministry of Justice with the participation of State Foundation for Local Self-Government.

*August, 2011;*

On determining the procedure for transfer of powers of local self-government bodies of villages, townships, towns, districts to newly created local self-government bodies.

Ministry of Regional Development and Construction, Ministry of Economics, Ministry of Justice, Ministry of Finance, other concerned central and local executive authorities with the participation of Ukrainian Nationwide Local Self-Government Bodies' Association "Association of Ukrainian Cities", Association of Village and Township Councils of Ukraine, **Ukrainian Association of Local and Regional Authorities**.

*September, 2011;*

On amending the Land Code of Ukraine concerning the right to manage lands according to powers of the executive authorities and local self-government bodies specified by the Laws of Ukraine "On Local Self-Government in Ukraine" (new revision) and "On Local State Administrations" (new revision).

State Committee on Land Resources, other concerned central executive authorities with the participation of Ukrainian Nationwide Local Self-Government Bodies' Association "Association of Ukrainian Cities", Association of Village and Township Councils of Ukraine, **Ukrainian Association of Local and Regional Authorities**.

*Within two months after adopting Laws of Ukraine "On Local State Administrations" (new revision), "On Local Self-Government in Ukraine" (new revision);*

On amending the Budget Code of Ukraine concerning splitting expenditure among different levels of budgets with the purpose to achieve compliance with the Laws of Ukraine “On Local Self-Government of Ukraine” (new revision) and “On Local State Administrations” (new revision)), and implementing calculation of interbudgetary transfers (equalization transfer and funds transferrable to the state budget) based on state social standards.

Ministry of Finance, Ministry of Economics, Ministry of Justice, Ministry of Regional Development and Construction, other concerned central and local executive authorities with the participation of Ukrainian Nationwide Local Self-Government Bodies’ Association “Association of Ukrainian Cities”, Association of Village and Township Councils of Ukraine, **Ukrainian Association of Local and Regional Authorities**.

*Within six months after adopting Laws of Ukraine “On Local State Administrations” (new revision), “On Local Self-Government in Ukraine” (new revision);*

On amending the Law of Ukraine “On Local State Administrations” in pursuance with the changes incorporated to the Constitution of Ukraine.

Ministry of Regional Development and Construction, Ministry of Economics, Ministry of Justice, Ministry of Finance, National Agency of Ukraine for State Service, other concerned central and local executive authorities.

*Within two months after adopting the Law of Ukraine on Amending the Constitution of Ukraine concerning formation of executive authorities of district and regional authorities and alteration of local state administrations’ functions;*

On amending the Law of Ukraine “On Local Self-Government in Ukraine” in compliance with the changes incorporated to the Constitution of Ukraine.

Ministry of Regional Development and Construction, Ministry of Economics, Ministry of Justice, Ministry of Finance, National Agency of Ukraine for State Service, other concerned central and local executive authorities with the participation of the State Foundation for Local Self-Government.

*Within two months after adopting the Law of Ukraine on Amending the Constitution of Ukraine concerning formation of executive authorities of district and regional authorities and alteration of local state administrations’ functions;*

2) draft resolutions of the Cabinet of Ministers of Ukraine:

concerning formation under the Cabinet of Ministers of Ukraine of a body on local self-government reform chaired by the Prime-Minister of Ukraine.

Ministry of Regional Development and Construction, other concerned central and local executive authorities.

*September, 2011;*

On approval of the Procedure of generation, establishment and adoption of state social standards and their financial support according to the new administrative and territorial system.

Ministry of Regional Development and Construction, Ministry of Finance, Ministry of Education and Science, Ministry of Health Care, Ministry of Labor and Social Relations, Ministry of Culture and Tourism with the participation of Ukrainian Nationwide Local Self-Government Bodies’ Association “Association of Ukrainian Cities”, Association of Village and Township Councils of Ukraine, Ukrainian Association of Local and Regional Authorities.

*Within two months after adopting Laws of Ukraine “On Local State Administrations” (new revision), “On Local Self-Government in Ukraine” (new revision);*

On approving the structure of local state administrations.

Ministry of Regional Development and Construction, Ministry of Economics, Ministry of Justice, Ministry of Finance, National Agency of Ukraine for State Service, other concerned central and local executive authorities.

*Within three months after adopting the Law of Ukraine on amending the Constitution of Ukraine concerning formation of executive authorities of district and regional authorities and alteration of local state administrations' functions;*

3) drafts of legislative acts:

On creating new administrative and territorial units — communities pursuant to the Law of Ukraine “On Administrative and Territorial System of Ukraine” taking into consideration results of simulating communities by the regional and Sevastopol municipal state administrations and the Council of Ministers of the Autonomous Republic of Crimea.

Ministry of Regional Development and Construction, Ministry of Economics, Ministry of Justice, Ministry of Finance, other concerned central and local executive authorities with the participation of Ukrainian Nationwide Local Self-Government Bodies' Association “Association of Ukrainian Cities”, Association of Village and Township Councils of Ukraine, Ukrainian Association of Local and Regional Authorities.

*Within three months after adopting the Law of Ukraine “On Administrative and Territorial System of Ukraine”;*

concerning district reorganization pursuant to the Law of Ukraine “On Administrative and Territorial System of Ukraine”.

Ministry of Regional Development and Construction, Ministry of Economics, Ministry of Justice, Ministry of Finance, other concerned central and local executive authorities.

*Within one year after adopting the Law of Ukraine “On Administrative and Territorial System of Ukraine”.*

3. To ensure determining the total and annual need for budget funds to conduct local self-government reform, including communities' needs for additional infrastructural facilities to enable local self-government bodies to implement legally specified powers.

Ministry of Regional Development and Construction, Ministry of Finance, Council of Ministers of the Autonomous Republic of Crimea, regional and Sevastopol municipal state administrations, other concerned central and local executive authorities with the participation of Ukrainian Nationwide Local Self-Government Bodies' Association “Association of Ukrainian Cities”, Association of Village and Township Councils of Ukraine, Ukrainian Association of Local and Regional Authorities.

*During 2011.*

4. To provide funds to reform local self-government during preparation of draft State Budget of Ukraine for 2012 and later years.

Ministry of Finance, Ministry of Regional Development and Construction.

*Starting in 2011.*

5. To ensure delivery of health-care services:

On determining the procedure for transferring powers of local self-government bodies of villages, townships, towns and districts to newly created local self-government bodies.

Ministry of Regional Development and Construction, regional and Sevastopol municipal state administrations.

*After adoption of the Law of Ukraine on determining the procedure for transferring powers of local self-government bodies of villages, townships, towns and districts to newly created local self-government bodies.*

6. To ensure submission of the Concept of the Strategy of Local Self-Government Reform in Ukraine and the Plan of Actions regarding Concept implementation with committees and factions of Verkhovna Rada of Ukraine or during parliamentary hearings.

Ministry of Regional Development and Construction.

*During 2011.*

7. To provide publication in the mass media of measures establishing new administrative units — communities and reorganization of districts.

State Committee for Television and Radio Broadcasting, Ministry of Regional Development and Construction.

*During 2012.*

8. To ensure training of:

regional state administrations' staff in providing methodological assistance in establishing new administrative and territorial units — communities and reorganization of districts.

Ministry of Regional Development and Construction.

*During 2012;*

district state administrations' staff in providing methodological assistance in establishing new administrative and territorial units — communities.

Ministry of Regional Development and Construction, Council of Ministers of the Autonomous Republic of Crimea, regional and Sevastopol municipal state administrations, other concerned executive authorities.

*During 2011—2012;*

chairpersons of newly created communities and rural headpersons.

Council of Ministers of the Autonomous Republic of Crimea, regional and Sevastopol municipal state administrations.

After adoption of legislative acts on establishing new basic administrative and territorial units — communities in compliance with the Law of Ukraine "On Administrative and Territorial System of Ukraine".

## ANNEX 3. OVERVIEW OF ASSOCIATIONS<sup>2</sup>

- **Association of Cities of Ukraine**, <http://www.auc.org.ua/en>

**Date of establishment:** Founded in June 1992, and at that time it consisted of 35 member-municipalities. In January 1995, all-member meeting of the Association adopted its Statute. According to it, the Association has got its official name: the Association of Ukrainian Cities and its status was defined as an all-Ukrainian, non-governmental, non-profit, and non-partisan organization.

**Political affiliation:** No evident political affiliation, however, in fact it is strongly affiliated with the ruling party – Party of Regions; there were cases of exclusion of people from the board of the association because of the public expression of negative attitude to the policy of the Party of Regions.

**Membership:** Nowadays AUC unites 574 Ukrainian cities, rayons in cities, settlements and villages where more than 95% of Ukrainian urban population lives.

**Mandate:** reforming the political system, supporting the policy of market transformations, broadening the horizontal links between the municipalities by means of economic cooperation, advocacy of member-municipalities rights and interests, cooperating with state authorities and NGOs for Ukraine transforming into a nation with the socially-oriented market economy.

**Achievements:** For years of its existence, the AUC passed through the change of 3 presidents, a dozen governments, and together with its members went through 5 elections.

- the all-Ukrainian voluntary, non-partisan, non-profit union of local governments of about 574 territorial communities, uniting more than 95% of urban population of Ukraine aiming its activity at the safeguarding local self-government rights and advocating its interests;
- AUC is governed by the General Meeting – all-member meeting of the Association and in between its session by the AUC Board representing different-sized municipalities from all the regional offices;
- the central office in Kyiv and 25 regional offices in all oblasts of Ukraine;
- 10 professional groups: Union of Local Council Secretaries, Financial Departments Specialists, Local Council Lawyers, Section on Education, Health Care, Social Protection, Housing and Communal Economy, Land Policy, Culture and Arts, Family, Youth and Sport;
- the legislative and analytical center, its researches are based on the statistical data;
- the center of the legal assistance to the municipalities and local governments providing legal consultancy to local government officials, representing their interests in courts;
- the center for municipal staff training and professional development involved in drafting and implementation of training programs for local governments' servants, holding workshops, regional trainings, schools for municipal employees, maintains the data bases of local self-government experts and training institution providing training services to local governments. Implements a lot of USAID funded projects since 2001;
- the anchor organization of LOGIN in Ukraine (Local Government Informational Network of CEE countries);

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<sup>2</sup> Prepared by Oksana Remiga, UNDP

- the representative of Ukraine in the Council of European Municipalities and Regions and in the World organization «United Cities and Local Governments»;
- about 200 seminars, workshops, working group sessions, conferences, forums and trainings held in 2009-2010 with about 10 000 participants in general.

**Current capacities:** The Secretariat is comprised out of 12 people, working on full time basis. For the implementation of specific projects mainly funded by USAID it sub-contracts additional staff. The Association rents the premises, allocated by the Government of Ukraine. It sustains due to membership fees and financial resources from USAID. The Association has office branches in all 25 regions of Ukraine. It used to have a consulting voice during the policy making process, however with the change of the Government, it does not have or have very limited impact on the creation of the policy/legislation.

- **Association of Small Towns of Ukraine, <http://astu.com.ua/>**

**Date of establishment:** The beginning of its history starts in 1995, when the "Association of village and city councils" was registered. Association declared its will to actively express the interests of villages, towns and small cities of Ukraine. The activity was based on close cooperation with the Association of cities of Ukraine. In 2007 the Association was re-registered in Kiev and changed its name to "Association of Small Cities of Ukraine."

**Political affiliation:** From the very beginning is chaired by P.Kozyrev, Mayor of Ukrainka municipality and a member of the Party of Regions.

**Membership:** 57 councils of small cities and/or villages.

**Mandate:** Promote the development of communities of small towns and villages in order to increase their competitiveness and strengthen the foundations of local government.

- Research and analysis on local government development in small towns;
- Legislative Work;
- Establishing cooperation of regional authorities and small towns;
- Increase the competitiveness of small towns;
- Conduct conferences, forums, seminars, round tables, exhibitions, press conferences;
- Attracting foreign direct investment in small towns through business liaison representatives of foreign countries and small towns.

**Achievements:**

- Prepares a database of investment proposals from small towns
- Provides support in finding investors for projects of small towns
- Helps in development of investment projects, business plans
- Legal advice
- Advice on developing a strategic plan for economic development
- Consultations in preparation of investment proposals, development of business plans, investment projects, finding sources of financing investment projects
- Helps in establishing contacts between Ukrainian cities and foreign partners
- Event management, forums, conferences, seminars, exhibitions, presentations, round tables, press conferences and so on.



**Current capacities:** N/A. Are based on strong personal and leadership characteristics of the chairman. Due to his personal contacts and involvement, the association gets or does not get (depends on the case), the recognition on the central level and among the experts.

- **Association of Village and Settlement Councils of Ukraine,** <http://vassr.org/>

**Date of establishment:** Founded on 5 September 2009.

**Membership:** Village, settlements, town councils and their associations; no exact data available on the current number of members.

**Political affiliation:** No evident political affiliation. However, its creation was initiated by the ex-Prime-Minister Yulia Tymoshenko. The Association is now headed by Bogdan Gusak, member of the Party “Nasha Ukrayina” (Our Ukraine).

**Mandate:** The purpose of the formation of the Association is the effective implementation of village, settlement councils of their powers, coordination of actions to protect the rights and interests of communities, promoting local and regional development.

The main objectives of the Association are:

- Joining efforts of village and town councils to protect the rights and interests of the local communities;
- Creating conditions for effective exercise of powers of local government;
- Liaison with authorities in the process of addressing local and regional development to align with national, regional and local interests through consultations, conclusions and proposals to the draft regulations on these issues;
- Assistance to local governments in drafting their decisions;
- Coordination of the Association to achieve the goals and objectives of the Association.

**Current capacities:** N/A

- **Ukrainian Association of Rayon and Oblast Councils,** <http://alau.com.ua/>

**Date of establishment:** Established in September 1991 after adoption of the Independence Act of Ukraine as “Association of Twin Cities”, and in August 1992 renamed into the “Ukrainian Association of Local and Regional Authorities”. In 1992 added to the register of European associations and unions which provided the opportunity to take part in the activities organized by the Congress of Local and Regional Authorities of Europe. At the end of 2010, it was re-registered into the all-Ukrainian association of the bodies of local self-government called “Ukrainian Association of Rayon and Oblast Authorities”.

**Political affiliation:** No evident political affiliation, however, since 2002 it has been chaired by V.Tykhonov, and since 2010 by S.Chernov – both from the Party of Regions.

**Membership:** District (rayon), regional (oblast') councils, the Verkhovna Rada of the Autonomous Republic of Crimea, and other representative bodies of local self-government can become members of the Association in case of making respective decisions that comply with the provisions of the Charter of Association, paying membership fees and participating in the performance of statutory tasks. In total, 24 oblast councils (out of 24), the Verkhovna Rada of the Autonomous Republic of Crimea, and 360 rayon councils (out of 477) are members of the association.

**Mandate:** The purpose of the association is to improve the quality of life of local communities. To achieve this end, the association:

- Joins efforts of local governments to protect the rights and legitimate interests of regional and district councils
- Develops and submits proposals to state authorities on the development of local government, subject to mandatory review by the procedure established by law;
- Provides methodological, legal and informational assistance to local governments;
- Enhances the effectiveness of training and retraining of officials of local governments, increases their skills;
- Generalizes and extends the experience of local government for socio-economic and cultural development of local and regional development;
- Assists local governments - members of the Association in drafting their acts of socio-economic and cultural development of communities, programs and projects of local and regional development, budgetary issues, and social standards.

**Achievements:**

- In 2001 developed a draft law "On local self-government in Ukraine" (new version), which was approved by the Verkhovna Rada of Ukraine in the first reading.
- Was actively involved in development of the Concept of State Regional Policy and Programme for development of local self-government in Ukraine approved in 2001.
- Since 2003 has issued and disseminated the municipal newspaper "Volya-region"
- Founded the Contest of scientific student works on the issues of local government in Ukraine
- In 2003 conducted the international scientific-practical conference "Problems of regional policy of Ukraine"
- In 2005, under support of the UNDP/MGSDP held All-Ukrainian Conference "Local Government in the context of constitutional and democratic reforms in Ukraine."
- Took part in public discussion of the Draft Law "On the territorial system of Ukraine"
- Held the annual seminar in Odessa region to discuss the draft laws "On the territorial system of Ukraine", "On local self-government of the communities" and others.
- Participated in drafting of the Law of Ukraine "On association of local authorities" which was adopted in 2010

**Current capacities:** The Secretariat is comprised out of 6 people, working both on full time and part time basis. The Association rents the premises, allocated by the Government of Ukraine. It is mainly sustained by the membership fees that are paid by the members on the annual basis. The Association does not have office branches in other regions of Ukraine and in the implementation of its statute activities mainly rely on personal contacts in each oblast. It is weakly presented on the national level, especially with the change of the chairman (Tykhonov was replaced from the Government and appointed as the Ambassador to Belorussia), therefore has little impact on policy/decision making process.

# ANNEX 4. PROJECT: STRENGTHENING LOCAL DEMOCRACY AND SUPPORT FOR LOCAL GOVERNMENT REFORMS IN UKRAINE

Project of SIDA, SDC, and Ministry of Foreign Affairs of Denmark, implemented by the Council of Europe

