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TRANSFORMATION OF STATE EXECUTIVE POWER IN UKRAINE (90S OF THE XX CENTURY – THE BEGINNING OF THE XXI CENTURY)

Based on the comprehensive analysis of different sources, the peculiarities of the structure and powers of state executive authority in Ukraine right after getting independence are explored. Factors, that were causing negative consequences of its activity, which affected on average citizens' condition, are revealed. The importance of the mentioned problem is predetermined, first of all, by the necessity to have clear understanding of the mechanism of legislative and regulatory institutions in Ukraine further reforming. Besides that, legislative foundations of repeated changes of the central executive bodies competence are analyzed.

Key words: authority, the President, Government, Administration, Secretariat, State Secretary.

Target setting. Problems of state building have always been the first and most important in the life of Ukrainian society. On the effectiveness of government's functioning, both internal and external security of the state depends. Ukraine's centuries-long history of existence proves this. Special significance to mentioned fact is given in modern conditions, since the adoption in July, 1990 of the Declaration on State Sovereignty. Exactly this event was the milestone which started the development of power institutions in Ukraine on truly democratic principles. The processes connected with the transformation of formation, forms and methods of activity, the status of executive bodies, took place in complicated social and political and also social and economical conditions, that is why, they were controversial, were sometimes unexpected, were stipulated by the factors of short-term and long-term effects.

Analysis and studying measures of changing state institutions in Ukrainian society, the disclosure of positive and negative phenomena

in the process of their implementation is a current problem that has not only historical but practical significance as well.

Actual scientific researches and issues analysis. The fundamental changes and transformations of social life in Ukraine after the proclamation of independence require balanced view of scientists, first of all at the first experience of the formation of various bodies of state power, bringing them to national needs of the development of Ukrainian society, and therefore these problems are of constant interest among scholars. Among the authors who were involved in the coverage of this issue, should be mentioned leading Ukrainian scholars such as V. Lytvyn, V. Shapoval, O. Bandurka, S. Padalka, O. Petryshyn, H. Kasianov, M. Koziubra, O. Sviatotskyi, V. Zhuravskyi, F. Rudych and others, but at the same time, society faces new problems, which require broad analysis and solution, especially using the previous positive experience.

Goals setting. Noting the value of previous studies, it should be mentioned that in Ukraine, even today, there are disputes over the clear definition of the powers of central authorities. The purpose of this article is to reveal the essence, directions, forms of functioning and transformation of the bodies of executive branch of power, to find out its role in carrying out of political and economic systems reforming, and to establish the principles of democracy in the process of independent Ukraine's state-building.

The statement of basic materials. Due to the fact that in Ukraine, as part of the USSR, there was no self-governing system of public administration, the problems of its development were recognized as priorities, in fact, immediately after the acquiring of sovereignty. The Declaration on the State Sovereignty of Ukraine (July, 1990) proclaimed that "the Ukrainian SSR is independent in resolving issues of its state life" [1].

The principles of the Law "On Amendments and Additions to the Constitution (Fundamental Law) of the Ukrainian SSR" (October, 1990), which are important in relation to the essence of the charter of Ukraine as a sovereign state, confirm that "organization and activity of the state are based on the principles of all state power bodies election, their accountability to people, the responsibility of each state body and officials for entrusted case, the obligation of supreme

bodies decisions for subordinate ones, according to the distribution of their powers" [2].

The relevant laws of 1990 established separate principles regarding the status and functions of newly formed executive authorities, but their nature was more transitional to constitutional state, even declarative in fact. Only with the adoption of the Constitution of Ukraine in 1996, legal regulation of the role and place of executive bodies in the system of power began.

According to the Constitution of Ukraine in 1996, the Cabinet of Ministers of Ukraine is the supreme body in the System of Executive Power of Ukraine. It consists of the Prime Minister of Ukraine, the First Vice-Prime Minister, Vice-Prime Ministers, and Ministers. Before the adoption of the constitutional reform, the Prime Minister was appointed by the President of Ukraine with the approval of more than half of constitutional consistency of the Verkhovna Rada of Ukraine. Personal consistency of the Cabinet of Ministers of Ukraine was appointed by the President of Ukraine on the proposal of the Prime Minister of Ukraine.

The Cabinet of Ministers of Ukraine has wide powers. Firstly, it should ensure state sovereignty and economic independence of Ukraine. Secondly, it must take measures to ensure man and national's rights and freedoms. Thirdly, the Cabinet of Ministers of Ukraine has the following functions: a) to conduct financial, monetary, pricing, investment and tax policies; b) to develop and implement national programs of economic, scientific and technical, social and cultural development of Ukraine; c) to compile and ensure the implementation of the State Budget of Ukraine; d) to take measures to ensure defense and national security; e) to organize the implementation of external economic activity of Ukraine. The Cabinet of Ministers of Ukraine, within the limits of its powers, issues resolutions and orders that are obligatory for implementation.

Executive Power in the regions and districts is carried out by Local State Administrations. The heads of these administrations are appointed and dismissed by the President of Ukraine on the submission of the Prime Minister.

The creation of the Administration of the President of Ukraine (APU) in December, 1991 caused not only parallelism in the structure

of Executive Power, but also led to a significant narrowing of the independent activity of the Cabinet of Ministers of Ukraine and its powers as the highest Executive Body in the State [3].

Administration of the President of Ukraine is not provided for by the Constitution as a separate entity, this institution falls under the scope of Art. 106 Paragraph 28 of the Constitution of Ukraine on the right of the President of Ukraine to form consultative, advisory and other subsidiary bodies and services within the limits of the funds provided for in the State Budget.

From the creation, the authority and structure of the Administration of the President of Ukraine have been transformed many times in accordance with the wishes of the Head of State to its place and role in the system of Executive branch of Power. In addition, it should be noted that each year, the tendency of creating parallel structures in the Administration of the President of Ukraine to existed ones, for example, under the Cabinet of Ministers of Ukraine, ministries, etc., is increasing.

According to the decree of L. Kuchma "On Measures to Improve the Activity of the Administration of the President of Ukraine" of August 20, 2002, the changes that took place in the structure of the APU from 2000 till June 2002 were actually fixed. In June 2002, the posts of the Adviser to the President of Ukraine – the Director of the National Institute of Strategic Studies and the First Assistant of the Head of the State - were added to the APU. The administration of the President of Ukraine included 8 main departments with 14 departments in their constituency, 9 separate departments, a Group of advisers, assistants, scientific advisers and Presidential Referrers, permanent representatives of the President of Ukraine, the Secretariat of the Presidential Administration and the Secretariat of the National Council for the Coordination of the Activities of National and Regional Authorities and Local Self-Government.

In 2004, according to the staffing rate of the Administration of the President of Ukraine, it has 619 staff units (excluding cadres who work on voluntary bases). This is almost twice as much as the number of staff units of the Central Committee of the Communist Party of the UkrSSR in the 1980 s.

New mechanism, in fact, has hampered the development of democratic principles of state-building. Instead of civilized and democratic power division, there emerged dual power, and then three centers of power - the President, the Verkhovna Rada and the Government. And the components of the power triad were far from equal. At the heart of the state system of Ukraine was, in fact, mechanical combination of the elements of parliamentary republic, presidential governing and Soviet power, which caused a lot of internal contradictions. The weakest link in the triangle of confrontation of the centers of power was Government which did not have enough independence and freedom to act, but at critical moments turned into the main perpetrator, becoming a kind of political thunderbolt for the relief of social tension. During the period of its functioning, the Verkhovna Rada of the XII convocation has changed four governments of - V. Masol (May-October, 1990), V. Fokin (October, 1990 – October, 1992), L. Kuchma (October, 1992 – September, 1993), L. Kravchuk - YU. Zviahilskyi (September, 1993 – June, 1994) [4].

A manifestation of the desire to change the structure of central executive authorities radically was introduction of the Institution of State Secretaries. However, as the experience of Ukrainian state-building shows, the existence of the Institute of State Secretaries and their deputies did not actually justify itself. Taking into account this fact by the Decree of the President of Ukraine in May 26, 2003, it was eliminated. The posts of first deputies and deputies of the Minister were restored. The Cabinet of Ministers of Ukraine introduced the post of the State Secretary with the status of a member of the Government.

In the investigated period, the structure of the Government has been changed several times. In 1991–1995 a structure that existed until March, 11, 1999, when the President of Ukraine L. Kuchma issued Decree No. 250/99 "On Changes in the System of Central Executive Bodies of Ukraine" was established. This document has become an important step in improving the system of public administration, improving the efficiency of executive bodies, strengthening the leading role of ministries as the main subjects in the development and implementation of state policy and phased implementation of administrative reform in Ukraine. According to

this decree, six committees were established by consolidating, three committees were eliminated, five committees, departments and administrations changed their names.

The decree approved a new scheme for organization and interaction of central executive authorities. According to it, the supreme executive bodies, which leaders are members of the Cabinet of Ministers of Ukraine, were 18 ministries, 20 state committees and 50 other central structures. The range of central bodies which activity was directed and coordinated by the Cabinet of Ministers of Ukraine through other bodies of Executive Power was determined.

In December, 2002, a new Government and parliamentary majority signed a Protocol on fixing the distribution of positions in the Cabinet of Ministers of Ukraine and discussed the draft of political agreement among permanent parliamentary majority and the Coalition Government on cooperation and joint responsibility.

Viktor Yushchenko's election as the President naturally led to a series of fundamental changes in the state system of Ukraine. Measures to reform and improve the forms of activity of the central executive authorities of Ukraine have already been taken. This is due not only to the program objectives of new Government, but also to the principles of the Law of the Verkhovna Rada of Ukraine on Constitutional Reform.

Building of any system of power requires, first of all, the definition of a clear goal for what it is needed. It is determined in accordance with two main principles. First is that the main condition for the functioning of the state system should be the safeguarding of constitutional freedoms, without this there is no movement, no creation. The second is that the society should serve equally for all members of the community, whether at the level of the settlement or the state as a whole. Adherence to these principles will enable the state authorities to focus on ensuring compliance with constitutional freedoms.

Since the adoption of the Declaration on the State Sovereignty of Ukraine (July, 1990) till V. Yushchenko's election as the President of Ukraine, the consistency of the leadership of the Cabinet of Ministers of Ukraine has changed very often. Most Governments were of short-term action. For example, despite the fact that the trust of YU. Tymoshenko's government was confirmed by voting for changes

to the State Budget of 2005 which significantly increased the cost of the social part (374 MPs voted for it).

However, business environment was not created in the consistency of the Government with the beginning of its functioning. In addition, there was a confrontation between the Government, the State Secretariat and the National Security and Defense Council. It led to uncoordinated actions of the leaders of these structures and the President of Ukraine, and finally, to President's decision of the resignation of YU. Tymoshenko's government, to O. Zinchenko and P. Poroshenko's release from the appropriate positions. The consistency of the Cabinet of Ministers of Ukraine, headed by YU. I Yekhanurov, was updated by a third.

In the Decree of the President of Ukraine dated from the 8-th of February, 2005, we are talking about the organization of the activities of the National Security and Defense Council. The functions of making proposals on candidates for positions of judges, members of the Supreme Council of Justice and members of the Supreme Qualifications Commission of Ukraine's courts were transferred to the competence of the Secretariat; approval of proposals on candidates of the heads of law-enforcement bodies of the Autonomous Republic of Crimea, regions, such cities as Kyiv and Sevastopol and approval of draft decrees of the President of Ukraine on the awarding of higher military, special ranks and class ranks.

The mentioned actions positively affected the voting process - for giving consent to the appointment by the President of Ukraine of the Prime Minister of Ukraine YU.I. Yekhanurova voted 289 deputies, in particular the "Regions of Ukraine" (50 votes), the "People's Party" (45), the "Our Ukraine" (44), the "Yulia Tymoshenko Bloc" (7), the "Socialist Party of Ukraine" (25), the "Ukrainian People's Party" (23), the "Ukraine - Forward!" (20), the "United Ukraine" (3), the "Reforms and Order" (7), the "Party of Industrialists and Entrepreneurs of Ukraine" (15), the "People's Movement of Ukraine" (19), non-fractional (31). The factions of the "Communist Party of Ukraine" and the SDPU (o) [5] did not vote.

There were significant changes in governmental activity. The order of preparation and consideration of issues was changed. Firstly, there were specialized committees that had the right to discuss them

and to prepare relevant materials and decisions. Secondly, prepared documents in written were handed to all members of the Government. The invited (deputies, representatives of state administrations, scientists, employees of enterprises, institutions, organizations) had and opportunity to familiarize themselves with the Government's meetings with them. Thirdly, at a session, the minister or representative of the ministry, who is charged with reporting, briefly informs about the decision of the profile commission.

The status and authority of the structures, which are intended to provide the activity of the President of Ukraine, were radically changed. The status was changed and the powers of the Secretariat of the President of Ukraine and the Office of the National Security and Defense Council of Ukraine were much reduced. In accordance with the Decree of the President of Ukraine of September 22, 2005, "On some issues of the activities of the Secretariat of the President of Ukraine", measures concerning improving of its structure were taken, elimination of duplication of the functions performed by its structures and optimizing of its managerial staff was made [6]. The post of the First Assistant of the President of Ukraine was abolished.

The Decree of the President of Ukraine of October 14, 2005 "On the Establishment of the Secretariat of the President of Ukraine" determines that the secretariat is an auxiliary body to ensure the implementation by the Head of State his powers [7].

The Secretariat of the President of Ukraine is intended to ensure the interaction of the Secretariat with consultative, advisory and other subsidiary bodies and services created by the President of Ukraine. The Chairman of the Secretariat was Rybachuk Oleh Borysovykh, the First Deputy - Vasiunyk Ivan Vasylovych, the Deputy - Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea Volodymyr Ivanovych Kulish.

On October 14, 2005, the Decree of the President of Ukraine "Issues of the Staff of the National Security and Defense Council of Ukraine" [8], which approved the Regulations on the Apparatus and the Regulations on the Structure of the National Security and Defense Council of Ukraine (NSDC of Ukraine) was published.

It was emphasized that the apparatus of the National Security and Defense Council of Ukraine is a state body that carries out current

informational and analytical and also organizational support of the activity of the Council of National Security and Defense of Ukraine. In appropriate way, the structure of the NSDC of Ukraine, which includes, in addition to the Secretary and his Service, the First and four of his Deputies, is defined, and also: a) departments on military security and defense of Ukraine; foreign policy aspects of national security; on social and economic security; on state security issues; on organizational and technical support; b) administration of strategic development and control administration; c) services - providing the Reconnaissance Committee activity; on public relations; legal.

Characteristically, that at the same time, the Cabinet of Ministers of Ukraine approved a decision on the creation of seven governmental committees: 1) On Economic Policy Issues (the head was the Prime Minister YU. Yekhanurov; the deputy of the head was Economy Minister A. Yatseniuk); 2) On Issues of Legal Policy and Defense (the head was the Prime Minister YU. Yekhanurov; the deputy was the First Vice-Prime Minister S. Stashevskiy); 3) On the Real Sector of Economy (the head was the First Vice-Prime Minister S. Stashevskiy); 4) On Regional Policy (the head was the Vice-Prime Minister R. Bezsmertnyi); 5) On the Issues of Agricultural and Industrial Complex and Nature Management (the head was the Vice Prime Minister YU. Melnyk); 6) On the Issues of Humanitarian and Social Policy (the head was the Vice-Prime Minister V. Kyrylenko); 7) On European and Euro-Atlantic Integration Issues (the head was Foreign Affairs Minister B. Tarasiuk) [9].

Mentioned governmental committees had a number of powers performed by the Administration of the President of Ukraine and the Council of National Security and Defense. They had the right to resolve issues related to the development of certain sectors of National Economy, personnel issues, specific measures concerning citizens' social protection independently, in accordance with the Constitution of Ukraine, and promptly.

Conclusions. Consequently, the structure of the State Executive Power in Ukraine has changed several times during the period under study. This caused negative moments in their activity. Measures concerning structuring and defining the powers of the Cabinet of Ministers of Ukraine as a supreme body of Executive Power have

been taken. However, serious progress has not been achieved in it. The Law on the Cabinet of Ministers of Ukraine will be adopted only in 2014. In fact, systematic changing of governmental consistency negatively affected at the activity of the Supreme Executive Institution. Interference into the functioning of the Cabinet of the Presidential Administration of Ukraine revealed at the same level. It, in fact, solved the issues that should have been solved by the Government in accordance to its authorities. This was provided by the administration apparatus, which consisted of groups of politicians and advisers, Legal Department, International Affairs Service, Internal Affairs and Territorial Affairs Services, Informational, Forecasting and Analytical Services, Protocol Service, Press Service, Security Service, General Departments, Departments of Awards, in Matters of Citizenship, in Matters of Oblivion, Letters and Reception of Citizens, Office Equipment and Computerization, Bureau, sectors: Personnel, Control, Economic Service. This was largely due to the elimination of the Institute of State Secretaries in ministries and departments that existed in 2001–2003.

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ТРАНСФОРМАЦІЯ ДЕРЖАВНОЇ ВИКОНАВЧОЇ ВЛАДИ В УКРАЇНІ (90-ті РР. ХХ – ПЕРШІ РОКИ ХХІ СТ.)

На основі всебічного аналізу різних джерел досліджено особливості структури та повноважень державної виконавчої влади в Україні відразу після набуття незалежності. Розкрито чинники, які призводили до негативних наслідків її діяльності, що позначалося на становищі громадян. Водночас від оптимальної побудови системи виконавчої влади багато в чому залежить її ефективність.

Доведено, що виконавча влада є найбільш динамічною гілкою державної влади, оскільки її функціональні можливості та обов'язки зумовлюють характер роботи інституцій різного рівня. В силу такого динамізму зміни в характері функціонування органів виконавчої влади істотно впливають на розвиток усієї вітчизняної владної системи, створюють контури нового характеру владних відносин.

Досліджено трансформації державної влади не тільки в юридичному, а й історичному ключі, спираючись на аналіз ресурсної та ідеологічної бази змін, відповідності очікуванням громадян і еліт.

Важливість окресленої проблеми зумовлюється, перш за все, необхідністю мати чітке уявлення про механізм подальшого реформування законодавчо-розпорядчих інституцій в Україні.

Зазначено, що найбільш зацікавленими в масштабних змінах вітчизняної виконавчої гілки влади виступає правляча політична еліта, тому реформи проводяться «зверху» урядом, які прагнуть зміцнити систему державного управління, повернути довіру до державних інституцій з боку населення.

Доведено, що нестабільність системи органів виконавчої влади, неодноразові зміни її структури залишалися однією з головних перешкод для забезпечення ефективності діяльності державної виконавчої влади в Україні.

Крім того, проаналізовано законодавче підґрунтя неодноразових змін компетенції центральних виконавчих органів влади.

Ключові слова: влада, президент, уряд, адміністрація, секретаріат, державний секретар.

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