

National Agency of Ukraine on Civil Service

Center for Adaptation of the Civil Service to the Standards of the European Union

**REGULATORY AND LEGAL BACKGROUND FOR PROFESSIONALIZATION OF SERVICE
IN LOCAL SELF-GOVERNMENT AUTHORITIES
IN THE CONTEXT OF DECENTRALIZATION OF POWER**

Brief overview of the main legislative and regulatory acts aimed at the professionalization and development of managerial personnel of local self-government authorities



28.06.1996
Law of Ukraine No 254/96-VR
“On Adoption of the Constitution
of Ukraine and Entering
it into Force”

Adoption of the Constitution of Ukraine provided the local self-governance with the constitutional status.

The Law defined the system and guarantees of local self-governance in Ukraine, background for the organization and activity, legal status and responsibilities of government authorities and local self-government officials.



21.05.1997
Law of Ukraine No 280/97-VR
“On Local Self-Governance
in Ukraine”

Ratification of the European Charter of Local Self-Governance presupposed that the particular act became the part of the legislation of Ukraine, envisaging the necessity of providing local self-government authorities with highly professional staff taking into account personal qualities and competences as well as creating the right opportunities for professional training, rewards and promotion.



15.07.1997
Law of Ukraine No 452/97-VR
“On Ratification of the European
Charter of Local Self-Governance”

The Law regulates legal, organizational, financial and social conditions of realization of the right for the service in local self-government authorities for citizens of Ukraine, it defines general basis of activity of local self-government officials, their legal status, procedure and legal guarantees of being in service in local self-government authorities.



07.06.2001
Law of Ukraine No 2493
“On Service in Local Self-
Government Authorities”



The document above mentioned was adopted in order to improve the effectiveness of the activity of local self-government officials and it envisages carrying out certification once per four years, within the framework of which the main outcomes, business and professional qualities are to be assessed.

The Law defined legal principles of organization and activity of associations of local self-government authorities and their voluntary associations, their relations with government and local self-government authorities.

**16.04.2009
Law of Ukraine No 157-VIII
“On Associations of Local Self-
Government Authorities”**

**07.07.2010
Resolution
of the Cabinet of Ministers of
Ukraine No 564 “On Approval
of the Regulation on the System
of Training, Specialization
and Advanced Training of
Civil Servants and Local Self-
Government Officials”**

In fact, this act envisaged creation of a holistic system of training, specialization and advanced training of civil servants and local self-government officials. The system above mentioned was developed as a result of necessity of fulfilling the needs of central and local executive authorities, local self-government authorities in highly professional and highly cultured employers, that are able competently and responsibly to perform managerial functions, introduce the latest social technologies and promote innovative processes.



The Regulation foresaw obligation for all the categories of local self-government officials on issues on corruption prevention and counteraction in the civil service and service in local self-government authorities as well as development of appropriate training programmes.

The Concept was developed in order to identify ways and means of increasing the professional competence of civil servants, local self-government officials and local council deputies through the creation of appropriate conditions for their lifelong learning in educational establishments with the professional development system available through internships and self-study taking into account the best world practices and national traditions.



The competition is conducted in order to select, identify and disseminate the best practices (activities of the local self-government authority on the implementation of a project, a programme, a set of activities in a certain period, during which the positive practical results were obtained) of local self-government authorities on issues of social and economic development of the territories.





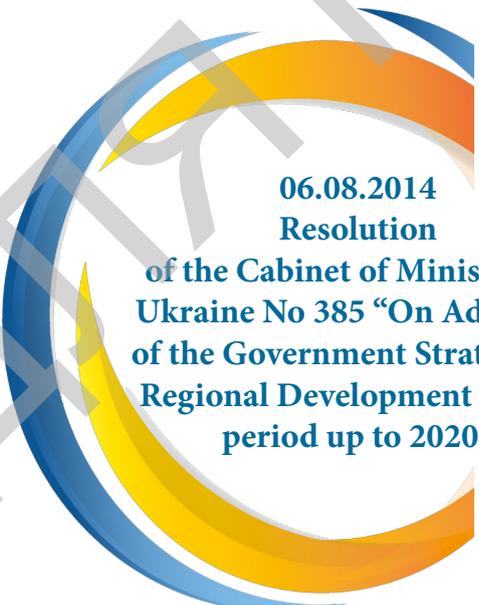
01.04.2014
Regulation
of the Cabinet of Ministers of
Ukraine No 333-r “On Approval of
the Concept of Reforming of Local
Self-Governance and Territorial
Organization of Power in Ukraine”

The goal of the Concept of Reforming of Local Self-Governance and Territorial Organization of Power in Ukraine is the formation of effective local self-governance and territorial organization of power aimed at creation and maintenance of a full-fledged living environment for citizens, providing high quality and affordable public services as well as meeting the interests of citizens in the spheres of life activities in the respective territory. Among the challenges faced by the system of local self-governance, the Concept identified decrease in the level of professionalism of local self-government officials and reduction in the prestige of local self-government authorities in the labor market.

The Law defines the organizational and legal principles of cooperation of territorial communities, principles, forms, mechanisms of such cooperation as well as its promotion, financing and control.



17.06.2014
Law of Ukraine No 1508-VII
“On Cooperation of Territorial
Communities”



06.08.2014
Resolution
of the Cabinet of Ministers of
Ukraine No 385 “On Adoption
of the Government Strategy for
Regional Development for the
period up to 2020”

This document identifies that one of the aims of the government regional policy is an effective government administration in the field of regional development in the direction of its professionalization and financial decentralization.



02.07.2014
Regulation
of the Cabinet of Ministers of
Ukraine No 647-r “On Adoption
of the Priority Action Plan on
Corruption Combating”

The Priority Action Plan on Corruption Combating provides the development of the draft Law of Ukraine “On Service in Local Self-Government Authorities” (new edition) based on the recommendations of international experts, in particular the EU programmes and OECD / SIGMA.

The Law extends, in particular, to local self-government officials, providing appropriate anti-corruption restrictions.

14.10.2014
Law of Ukraine No 1700-VII
“On Preventing Corruption”

The Law establishes the procedure for the association of territorial communities of villages, urban villages, cities as well as provides government support to united territorial communities.

05.02.2015
Law of Ukraine No 157-VIII
“On a Voluntary Association of
Territorial Communities”

The Strategy envisages enhancing the effectiveness of vocational training for civil servants and local self-government officials by optimizing the system of training, retraining and advanced training, in particular in the field of government and regional management, introduction of individual personnel development programmes and career planning.

18.03.2015
Regulation
of the Cabinet of Ministers of
Ukraine No 227-r “On Approval
of the Strategy for Reforming the
Civil Service and Service in Local
Self-Government Authorities in
Ukraine for the Period up to 2017
and Adoption of the Action Plan for
its Implementation”

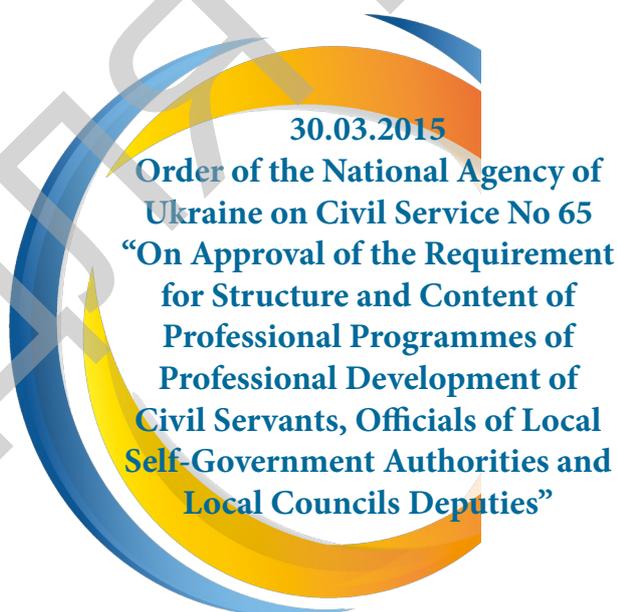


The Methodology determines the mechanism and conditions for the formation of capable territorial communities as well as the procedure for the development and approval of a long-term plan for the formation of territories of the communities of the Autonomous Republic of Crimea and regions (oblast). Subjects of voluntary association of territorial communities are adjoining territorial village communities, urban villages and cities. A capable territorial community is the territorial village communities (urban villages, cities), which in consequence of voluntary association are able to provide proper level of service provision, especially in the field of education, culture, health care, social protection, housing and communal services taking into account human resources, financial support and development of the corresponding administrative-territorial unit infrastructure by themselves or by relevant local government authorities.

Draft Law was developed with the aim of establishment of new legal and organizational foundations of services in local self-government authorities as professional and politically impartial activity for the benefit of the state and community and for insurances of realization of the equal access right to service in local self-government authorities for Ukrainian citizens.



Establishing of precise requirements for structure and content of professional programmes allowed to direct the process of professional development at making professional competence and updating the knowledge, abilities and skills on effective implementation of tasks and professional duties necessary for conducting of professional activity on the civil service and service in the local self-government authorities by listeners.





04.06.2015
Resolution
of the Verkhovna Rada of Ukraine
No 509-VIII “On Plan on Legislative
Support for Reforms in Ukraine”

The Resolution provided the implementation of the reforms complex, particularly, local self-government reform, regional policy and decentralization.

The Law defines basic principles, organization and rules of the deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, regional, district, cities, district in cities, villages, urban villages' councils, villages, urban villages' cities heads and village headmen (starosta) elections.



14.07.2015
Law of Ukraine No 595-VIII
“On Local Elections”



02.12.2015
Regulation of the Head of
Verkhovna Rada of Ukraine
No 1692 “On the Formation
of Local Self-Government
Parliamentary Office”

The Parliamentary Office of Local Self-Government is authorized to carry out tasks on providing information and advisory assistance to the representatives of local self-government authorities and assistance in solving organizational issues regarding their cooperation with the Parliament and conducting the events (roundtables, conferences, working meetings) with the participation of representatives of the European Parliament, higher and local representative authorities of foreign countries, experts with the aim of sharing best world experience of local self-government organizations and its legislative provision, decentralization of power, reforming of local self-governance, development of local democracy.



The Law provided introduction on amendments to some legal acts of Ukraine aimed at empowerment of local self-government authorities and optimization of administrative services delivery process.

Adoption of this act provided amendments to some resolutions of the Cabinet of Ministers of Ukraine in the part of enhancing the role of the National Agency of Ukraine on Civil Service as the central executive government authority which ensures the formation and functioning of the system of professional training of civil servants and local self-government officials.

13.01.2016
Regulation
of the Cabinet of Ministers of Ukraine No 19 “Some Issues of Professional Training of Civil Servants and Local Self-Government Officials”

25.03.2016
Resolution
of the Cabinet of Ministers of Ukraine No 246 “On Approval of the Procedure for Conducting a Competition for Holding Civil Service Positions”

The Regulation established the new mechanism of conducting competition for holding the vacant position in local self-government authorities, which will be based on the evaluation of personal merits in learning, work and ability to apply knowledge, skills and abilities, moral and business qualities for proper fulfillment of job responsibilities, learning, professional and personal development.



11.04.2016

Order of the National Agency of Ukraine on Civil Service No 74, registered by the Ministry of Justice of Ukraine 27.07.2016 as of No 656/28786 “On Amendments to Requirements for the Structure and Content of Professional Programmes on Professional Development of Civil Servants, Local Self-Government Officials and Local Council Deputies”

Adoption of the order allowed standardizing distribution of learning time for conducting classroom studies and self-guided learning as well as introducing the European transfer ratings system to the process of professional development.

General rules are the generalization of standards of ethical behavior of civil servants and local self-government officials, which they are obliged to manage while fulfilling their job responsibilities.

05.08.2016

Order of the National Agency of Ukraine on Civil Service No 158 “On Approval of General Rules of Ethical Behavior of Civil Servants and Local Self-Government Officials”

**22.09.2016
Regulation**

of the Cabinet of Ministers of Ukraine No 688-r “Some Issues of the Concept Realization on Reforming of Local Self-Government and Territorial Organization of Government in Ukraine”

The Regulation above mentioned foresaw adoption of the action plan on the Concept realization on reforming of local self-government and territorial organization of government in Ukraine, which presupposes development of training programmes for local self-government officials, local council deputies and civil servants, in particular on decentralization of the financial system, strengthening the material and financial basis of local self-governance.



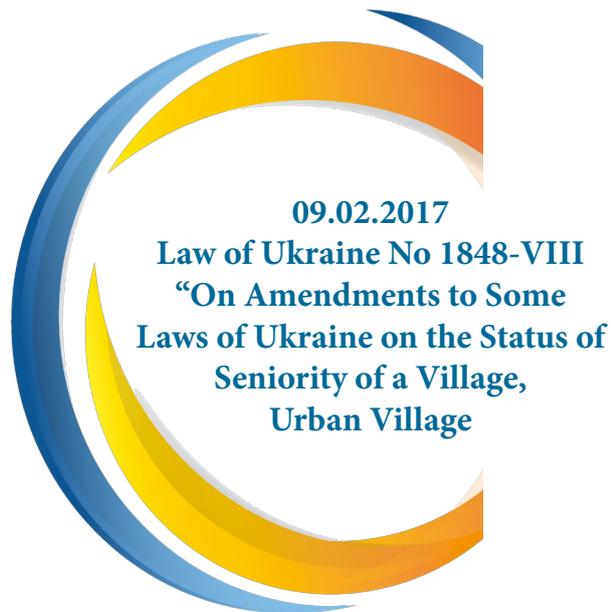
Adoption of this act allowed creating conditions for the fulfillment of the state order for the training of civil servants and local self-government officials in 2017-2018.

Adoption of the Law has expanded the powers of local self-government authorities to monitor the observance of labor and employment legislation as well as provided the possibility of conducting inspections of enterprises, institutions and organizations that are in the communal property of the respective territorial community.



The Decree identified an increase of institutional capacity of local self-governance in Ukraine as one of the priorities of the state’s development in 2017. The Cabinet of Ministers of Ukraine has been entrusted to approve a set of measures for 2017 with the involvement of local self-government authorities, and foreseen the improvement of the system of raising the level of skills of local self-government officials and the mechanism of the recruitment of highly qualified persons to local self-government authorities.





The Law more clearly defined the status of village headman (starosta) by establishing, at the legislative level, the spatial boundaries of his/her activities, the scope of powers, the basis and the order of early termination of powers and guarantees of activity. The adoption of the Law has accelerated the process of formation the capable territorial communities, increased the effectiveness of their bodies in relation to the socio-economic and cultural development of the territories where the united territorial communities were created as well as solved issues of guarantees of the activity of the village headman (starosta) of state that arise due with their election.

The Law created the opportunities for the formation of united territorial communities, the subject formation of which is supposed to be territorial communities of region significance cities without changing the boundaries of the respective regions. This Act defined a clear sequence of actions in the process of appointing the first local elections in the territorial communities formed as a result of the merger of territorial communities of different regions and changes the boundaries of such areas.



This Act regulates the process of transition (passing) of 208 communities where the first elections of deputies of the village, urban village, city council and village, town and city mayor took place in 2016 on direct interbudgetary relations with the State Budget of Ukraine.





This Act of the Cabinet of Ministers of Ukraine regulated issues of status of village headmen (starosta), in particular the circle of local self-government officials who were not subject to certification was supplemented and the post of seniority in the fifth category of posts of local self-government authorities was excluded. The Standard Statute on the Certification of Local Self-Government Officials approved by Resolution of the Cabinet of Ministers of Ukraine (CMU) as of 26.10.2001 No 1440 and the Resolution of the CMU “On the Assignment of Positions of Local Self-Government Authorities to the Corresponding Categories of Positions as of 26.10.2001 No 1440 were amended.

The goal of the Concept for reforming of the system of professional training for civil servants, local self-government officials and local councils deputies (hereinafter - the Concept) is to define strategic directions, mechanisms and timing of the formation of a modern effective model (system) of professional training of civil servants, local self-government officials (local self-government servants), local council deputies. It will provide proper increase of their professional competence also it will focus on the needs of the individual in professional development throughout life and will ensure the implementation of the principles of good governance.





GLOSSARY OF BASIC LEGAL TERMS ON LOCAL SELF-GOVERNANCE



Administrative service — the result of realization of powers of authority by the subject of administrative services delivery following the application of a physical or legal entity, aimed at acquiring, changing or terminating the rights and / or duties of such person in accordance with the law.

Administrative-territorial unit — a region (oblast), district, city, district in the city, urban village, village.

Associations of local self-government authorities and their voluntary unions (associations) — voluntary non-profit associations created by local self-government authorities for the purpose of more effective implementation of powers, coordination of activities of local self-government authorities within the sphere of protection of rights and interests of territorial communities, promotion of local and regional development.



Bodies of self-organization of the population — representative bodies created by a part of residents, who temporary or permanently reside in the respective territory within the boundary of a village, settlement, city.

Boundary of the city — the external boundary of the city's land separating them from land of other purpose and determined by the project of planning and building of the city or techno-economic feasibility report of the city development.

Boundary of the district, village, settlement, city, district in the city — a conventional closed line on the surface of the land separating the territory of the district, village, settlement, city, district in the city from other territories.

Budget — a plan for the creation and spending of financial resources for providing functions that are carried out by government authorities of Ukraine, the authorities of the Autonomous Republic of Crimea and local councils of people's deputies.

Budget of local self-governance (local budget) — a plan of formation and using of financial resources that is necessary for the provision (support) of functions and powers of local self-governance.

Budgets of local self-governance — budgets of territorial communities of villages, settlements, cities and their associations.

Current budget the revenues and expenditures of the local budget, which are formed and used for covering current – expenditures.

Development budget — the revenues and expenditures of the local budget that are formed and used for realization (implementation) of programmes of socio-economic development, strengthening the material and financial base.



Regional budget — a plan for the creation and spending of financial resources necessary to ensure common interests of territorial communities, implementation of local programmes, implementation of budget equalization.



Competent structure of council — a number of deputies, elected to the relevant council whose powers are acknowledged and are not stopped in the procedure established by the law, constituting at least two thirds of general structure of council.

Composition of the council — a number of deputies, elected to the relevant council whose powers are acknowledged and are not stopped in the procedure established by the law, constituting at least two thirds of general structure of council.



Delegated powers — powers of executive authorities that are given to local self-government authorities by law as well as powers of local self-government authorities that are given to relevant state local authorities by district or regional (oblast) councils.

District and regional councils are local self-government authorities representing the common interests of territorial communities of villages, settlements and cities.

District budget — a plan of generation and use of the financial resources necessary for ensuring common interests of territorial communities of villages, settlements, cities of district value, accomplishment of local programmes, implementing the budget equalization.



Election process of local elections — implementation of local elections, election procedures by the subjects of the election process.

Executive authorities of the councils — the authorities that in accordance with the Constitution of Ukraine and the Law of Ukraine «On Local Self-Governance in Ukraine» are created by village, settlement, city and city district (in case of their creation) councils for realization of executive functions and powers of local self-governance within the limits defined by the Law of Ukraine «On Local Self-Governance in Ukraine» and other laws.



General meeting — a meeting of all or part of residents of the village (villages), settlement, city aimed at solving the issues of local character.



Local self-government — the right of a territorial community — residents of a village or a voluntary association of residents of several villages into one village community, residents of a settlement and a city independently to solve issues of local character within the framework of the Constitution and laws of Ukraine.



Local self-government in Ukraine — the state-guaranteed right and real capability of a territorial community – residents of a village or a voluntary association of residents of several villages into one village community, residents of a settlement and a city independently or at the liability of local self-government officials to solve issues of local character in compliance with the Constitution and laws of Ukraine.

Local self-government official — a person who works for local self-government authorities, has the appropriate official powers in carrying out organizational-administrative, consultative and advisory functions and receives salary from the local budget.

Local referendum — the form of making decisions by the territorial community on issues related to local self-governance through direct voting.

Local state administration — a local executive authority and it is a part of the system of executive authorities.

Local taxes and fees — taxes and fees established in accordance with the list and within the framework of the rates determined by the Tax Code of Ukraine, decisions of village, settlement, city councils and councils of the united territorial communities (established in accordance with the law and the prospective plan of formation of territories of the communities) within their authority. Local taxes and fees are obligatory to pay on the territory of respective territorial communities.



Minimum level of social needs — the guaranteed by the state minimum level of social services per capita within the whole territory of Ukraine.

Minimum local government budget — the estimated amount of local budget necessary for the implementation of local self-government powers at the level of minimum social needs, which is guaranteed by the state.

Municipal property — да property given to other subjects of property rights by the state on a free-of-charge basis; property that is created and purchased by local self-government bodies at the expense of their funds, as well as the property defined by the Law on Property.

Municipal property right — the right of a territorial community to possess, expediently, economically, effectively use and dispose the property belonging to it in its discretion and in its interests, both directly and through local self-government authorities.

Overall composition of the council — the number of council deputies, determined by the council in accordance with the law.

Own powers of the body of self-organization of the population — powers conferred in accordance with the Constitution and laws of Ukraine to the body of self-organization of the population during its formation by the village, settlement, city or city district (in case of its creation) by the council.





P

Position — a primary structural unit of the state body and its administration determined by the staffing structure, which has the set of official powers according to normative acts.

Public administration — the type of state activity, consisting in the implementation of administrative, that is, organizing influence on those spheres and sectors of public life, which require a certain state intervention through the use of powers of executive bodies. At the same time, public administration is also carried out outside the functions of the executive authorities, for example, at the level of state enterprises, institutions and organizations. Due to this, the term “public administration” in terms of content is wider than the term “executive power”. The term “public administration sector” is used to determine meaningfully combined spheres or sectors of public life that require state administration.

Principle of subsidiarity — a principle of interaction between different levels in the hierarchical management system, in which a higher level adopts new solutions (rules and procedures) only if they are more efficient than the corresponding lower level solutions.



R

Representative authority of local self-government — elected authority (council) which consists of deputies and according to the law is allocated with the right to represent the interests of territorial community and make decisions from his/her name.



S

Small cities — cities with a population of up to 50 thousand people.

Solution of the local budget — a legal act of the Verkhovna Rada of Autonomous Republic of Crimea or relevant council adopted as prescribed by the legislation of Ukraine and consists of delegated powers in accordance with the Council of Ministries of Autonomous Republic of Crimea, local state administration or executive authority of local self-government to implement a local budget during the budgetary period.

Self-taxation — the form of attraction on voluntary basis according to the decision of meeting of citizens at the place of residence of funds of the population of the corresponding territory for financing of one-time target actions of social nature.

Service in local self-government authorities — a professional activity, on a permanent basis, of Ukrainian citizens who hold the positions in local self-government authorities aimed at realizing the right of the territorial community for local self-governance and separate powers of executive government authorities provided by law.

Starosta (headman) — an elected official of local self-government authority.

Starostinsky district — a part of the territory of the integrated territorial community created according to the Law of Ukraine “On Voluntary Consolidation of Territorial Communities” where one or several settlements are located (villages, settlements), except the administrative center of the integrated territorial community, determined by the village, settlement, city council for the purpose of providing representation of interests of inhabitants of such settlement (settlements) with the headman (starosta).



Subject of authority is a governmental authority, local self-government authority, another entity exercising power management functions in accordance with the legislation, including delegated powers.

Sustainable development – development of society aimed at meeting the needs of the present generation, taking into account the interests of future generations.

System of local self-governance includes: territorial community; village, settlement, city councils; village, settlement, city heads; executive authorities of village, settlement, city councils; district and regional councils representing common interests of territorial community of villages, settlements, cities; authorities of self-organization of the population.



Territorial community — the inhabitants united by permanent residence within the village, settlement, city which are independent administrative and territorial units or voluntary consolidation of residents of several villages having the single administrative center.



Village, settlement, city mayor — a general official of territorial community of relevant village, (a voluntary unification of residents of several villages into one territorial community) settlement, city.



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