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THE STATE OF DEVELOPMENT OF DELIBERATIVE DEMOCRACY IN UKRAINE

Abstract

The relevance of the state of deliberative democracy development in Ukraine is connected with the low efficiency of interaction between civil society and public authorities in Ukraine, as well as the inadequate level of functioning of existing deliberative democracy instruments. Since the decision-making system that was developed in recent years in Ukraine does not provide a rational approach, but is based on a one-sided understanding of political realities without taking into account the views of civil society, it is necessary to explore the deliberative democracy in Ukraine, by which the author understands the model of democracy, which is based on institutionalized dialogue between government and civil society, rational discourse, discussion, persuasion, argumentation, compromise, in which compliance ensures rational decisions.

The comparative method was used in comparing the procedural consolidation and, in particular, the actual holding of public hearings by the Ternopil City Council and the Ladyzhyn City Council. The structural-functional method allowed to study the main mechanisms of deliberative democracy (local initiatives, general meetings of citizens, public hearings) as a factor in increasing the level of citizen involvement in political decision-making.

Based on this, an absence of the mechanism to control the decision-making process on local initiatives was identified. The article proved the incapacity of deliberative instruments in Ukraine, without overcoming which it is impossible to count not only on the ideal, but also, at least, on the optimal model of development of deliberative democracy. As a result, the author presented ways to improve the legal regulation of the general meetings of citizens at the place of residence in order to increase the level of citizens involvement in the deliberative discourse in Ukraine.

Key words: deliberative democracy, deliberative dialogue, civil society, public authorities, modern Ukrainian society.

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СТАН РОЗВИТКУ ДЕЛІБЕРАТИВНОЇ ДЕМОКРАТІЇ В УКРАЇНІ

Резюме

Актуальність дослідження стану розвитку деліберативної демократії в Україні пов'язана із низькою ефективністю взаємодії громадянського суспільства та органів державної влади в Україні, а також не належним рівнем функціонування існуючих інструментів деліберативної демократії. Оскільки система прийняття рішень, яка склалась в останні роки в Україні, не передбачає раціонального підходу, а ґрунтується на односторонньому розумінні політичних реалій без урахування думок громадянського суспільства, необхідним постає дослідження деліберативної демократії в Україні, під якою автор розуміє модель демократії, в основі якої лежить інституціоналізований діалог органів державної влади та громадянського суспільства, раціональний дискурс, обговорення, переконання, аргументація, компроміс, у якому дотримання процедур забезпечує раціональність рішень.

Мета дослідження: проаналізувати стан взаємодії громадянського суспільства та органів державної влади в Україні.

Для досягнення поставленої мети використовувались такі наукові методи як описовий, системний, структурно-функціональний, інституціональний, порівняльний. Компаративний метод було використано при порівнянні процедурного закріплення та, зокрема, фактичного проведення громадських слухань Тернопільською міською радою та Ладижинською міською радою. Структурно-функціональний метод дозволив дослідити основні механізми деліберативної демократії (місцеві ініціативи, загальні збори громадян, громадські слухання) як чинник підвищення рівня залученості громадян до прийняття політичних рішень.

На підставі цього було виявлено відсутність механізму контролю за процесом ухвалення рішень з питань місцевих ініціатив. У статті було доведено недієздатність деліберативних інструментів в Україні, без подолання якої, неможливо розраховувати не тільки на ідеальну, а й, принаймні, на оптимальну модель розвитку деліберативної демократії. У підсумках автором наведено шляхи вдосконалення правового регулювання загальних зборів громадян за місцем проживання з метою підвищення рівня залучення громадян до деліберативного дискурсу в Україні.

Ключові слова: деліберативна демократія, деліберативний діалог, громадянське суспільство, органи державної влади, сучасне українське суспільство.

Introduction

The process of formation of deliberative democracy in modern Ukrainian society is extremely relevant, since the decision-making system that has developed in recent years does not provide a rational approach, but is based on a one-sided understanding of political realities without taking into account the views of the general public and civil society. As well, modern Ukrainian discourse is more often characterized by the views of those who seek to discuss political issues. Under the circumstances in Ukraine, the most active part of society is looking for opportunities to influence the situation in the country and seeks to draw the attention of public authorities to existing problems. That is why it is important to turn to the deliberation as a channel of unimpeded discussion of issues of concern to society, taking into account the interests of different groups of the Ukrainian population.

Moreover, due to the lack of attention of Ukrainian scholars to the analysis of modern approaches on deliberative democracy understanding, as well as to the practical issues of expediency and effectiveness of deliberative democracy elements, the challenges that arise, the thorough research becomes necessary.

Important elements of the implementation of the conceptual model of deliberative democracy are the tools and methods of organizing the discussion of socially important issues both at the national level and at the level of territorial communities, social groups, social networks and others. The concept of deliberative democracy has been studied by J. Dreisek, J. Cohen, J. Besset, J. Fishkin, B. Ackerman, J. Mansbridge, J. Parkinson, G. Richardson, K. Ross, J. Forrester. Among modern researchers who pay attention to the deliberative democracy researches should be singled out S. Benhabib, K. Strandberg, D. Halpern, J. Gibbs, M. Oz and others. Among Ukrainian researchers who pay attention to the study of the concept of deliberative democracy, it is necessary to single out such as M. Zakharchenko, Y. Herman, T. Andriyчук, I. Bartagariyev, A. Kovaleva, S. Mamchak, O. Demyanenko, A. Kolodiy and others.

The purpose of the article is to analyze the state of interaction between civil society and public authorities in Ukraine and to identify gaps that need to be improved for the development of effective deliberative democracy in Ukraine.

Methods

To achieve the article goal, such scientific methods as descriptive, systemic, structural-functional, institutional, comparative were used. The comparative method was used in comparing the procedural consolidation and, in particular, the actual holding of public hearings by the Ternopil City Council and the Ladyzhyn City Council. The main mechanisms of deliberative democracy (local initiatives, general meetings of citizens, public hearings) as a factor in increasing the level of citizen involvement in political decision-making were studied by using the structural-functional method. The institutional method allowed to explore the place and role of public authorities in the life of civil society. Simultaneously, systematic method helped to assess deliberative democracy in Ukraine and identify ways to improve the legal regulation of deliberative instruments to increase the level of citizen involvement in deliberative discourse in Ukraine.

Results

Conceptually, deliberative democracy combines different approaches, views and ideas related to increase of the legitimacy, effectiveness of the elements of deliberative democracy and the challenges facing it. Due to the lack of effective interaction between civil society and public authorities in modern Ukraine, the analysis of the procedural organization of deliberative processes in Ukrainian society becomes relevant, in particular, the research of the specifics of deliberative dialogue, the effectiveness of already developed elements of deliberation and recommendations for increasing public involvement.

Deliberative dialogue in the modern political process takes the form of argumentative discourse; is accessible to various segments of the population and has a public and transparent nature; its participants are equal in their rights. In Ukraine, deliberation is reflected in such special forms of direct expression of will of citizens as general meetings, local initiatives and public hearings [1, p. 249]. However, there are questions about the effectiveness and efficiency of such forms of deliberative democracy, which, in particular, depends on the approved on-site Procedures for regulating the introduction and consideration of local initiatives in city councils. For example, on December 8, 2016, the Kyiv City Council adopted a decision № 545/1549, which approved the «Procedure for the introduction and consideration of local initiatives in the city of Kyiv» (hereinafter – the Procedure) [2]. The official website of the Kyiv City Council contains all the detailed information on local initiatives and the status of their consideration, and at the same time is evidence of the low effectiveness of such mechanism of deliberative democracy as local initiatives. Besides, most of the

proposals submitted by the initiative groups of members of the Kyiv territorial community since 2018–2019 are under consideration in the relevant commissions and are not supported by relevant decisions as provided by the Procedure [2].

In particular, the local initiatives that were considered at the meeting of one or another profile standing commission of the Kyiv City Council and, as a result of which, it was decided to support the draft decision, deserve attention. Such local initiatives have been given the status of «submitted draft decision», the projects of which from 2018 until today are either not approved or eventually rejected by the profile commissions. For example, we are talking about local initiatives № 08 / KO-5060 from 12.11.2018 «On granting the status of a park to a land plot, at the address: st. Koloskova, 11A with an oriented area of 4.50 hectares in Solomyanskyi district of Kyiv» (decision was not made), № 08 / KO-2304 dated 08.05.2018 «On implementation of measures to preserve Sovskey ponds» (sent for revision by the profile commission) [3], etc.

However, there are positive examples. Thus, among the list of local initiatives for 2018–2020 posted on the website of the Kyiv City Council, the Council made a decision on April 4, 2019 № 512/7168 «On renaming the street in the Pechersk district of Kyiv» in accordance with the proposal of members of the territorial community Kyiv № 08 / KO-1064 «On the renaming of Ivan Kudry Street in the Pechersk district to John McCain Street» [4].

After the deep analysis of the Procedure [2], we can stipulate that the Kyiv City Council procedurally considers the issue submitted through a local initiative, and submits a draft decision, which must be made public. It is obvious that local initiatives allow community representatives directly to submit issues important for community development to local governments. However, decision-making on initiated local proposals remains open for several years, which indicates the absence of a mechanism for monitoring the decision-making process. As the city council has the right to adopt a draft decision, reject it or send it for revision, the mechanism of control over the decision-making process on local initiatives will ensure the effective functioning of deliberation mechanisms in Ukraine. At the same time, the procedure for submitting a draft decision on local initiative issues for revision needs to be regulated. It would be expedient to stipulate that such a draft, after finalization and latest approval, should be submitted for consideration to the next regular session of the council. And also to envisage that the decision on completion of the project can be accepted by council no more than once after which council can accept or reject the draft decision.

Another form of deliberation in Ukraine is the general meeting of citizens, which is held to discuss issues of local importance, informing the public about the activities of local authorities and local government officials. The assembly of citizens may accept appeals to bodies and officials of local self-government, as well as elect persons authorized to represent the assembly of citizens in relations

with bodies and officials of local self-government. The results of the meeting of citizens are subject to official announcement (publication) [5].

The general meeting of citizens is a form of direct democracy. At the legislative level, it is determined that this mechanism is accessible to citizens and is one of the most effective means of their self-organization. It is obvious that the general meeting of citizens provides a real opportunity to unite for collective discussion of issues and decision-making with their personal activity and initiative, which are manifested in various organizational and legal forms (questions, speeches, voting, etc.). In a deliberative democratic society, the general meeting plays an important role in the system of local self-government, as it is a form of involving citizens in a variety of management functions [5].

However, in Ukraine the right for a general meeting has a pronounced declarative character, as most statutes of territorial communities of cities do not provide the regulation of the procedure of initiating, announcing, preparing, holding of general meetings. For example, the Charter of the territorial community of the city of Vinnytsia was approved by the decision of 29.10.2010 №2975 and the procedure for holding a general meeting of citizens needs detailed elaboration [6]. Currently, the existing gaps described above are the reasons for the ineffectiveness of such a mechanism of deliberative democracy as the general meeting in Ukraine.

In particular, in the Report on the Assessment of the Implementation of Local Democracy Instruments in Local Self-Government Bodies of Partner Cities of PROMIS Projects «Urban Democracy Index 2020» prepared by the expert team for the International Technical Assistance Project «Partnership for Urban Development» (PROMIS Project), which implements Federation of Canadian Municipalities, funded by the Ministry of International Affairs of Canada, analyzed and investigated the implementation of local democracy tools that provide procedures for involving residents in planning and decision-making, transparency, accountability of local government bodies and officials of 16 partner cities of the PROMIS Project and the results of assessing the implementation status of such tools [7].

Among the analyzed 16 partner cities, Khmilnyk city was identified as the leader in procedural quality assurance of local democracy—66%, Vinnytsia—61%, Ivano-Frankivsk—51%. In addition, it was statistically proven that in the surveyed cities, such tools for involving residents in local government planning and decision-making (deliberation mechanisms) as e-petitions (78%), public budget (67%), city council' website interactivity (57%) are better regulated. Mechanisms such as electronic consultations (9%), public consultations (13%), general meetings of citizens at the place of residence (16%), involvement of residents in the formation of the local budget (20%) are the worst regulated [7].

According to the Regulations on the General Meeting of Citizens at the Place of Residence in Ukraine approved by the Resolution of the Verkhovna

Rada of Ukraine dated December 17, 1993 N 3748-XII, citizens who have reached 18 years of age and permanently reside in the relevant territory have the right to participate in the general meeting, as well as deputies of Soviets of People's Deputies, representatives of state bodies, labor collectives, associations of citizens [8]. For example, the Charter of the Territorial Community of the City of Khmilnyk from November 24, 2005 N^o 499 regulates the possibility of citizens to influence and resolve important issues of the territorial community through a general meeting of citizens at the place of residence. In particular, on March 1, 2019 in the village of Markushi a general meeting of citizens with the participation of the head of Khmilnytsky district state administration Eugene Butkevych, head of Khmilnytsky district council Zoya Bonsevych, representatives of social and youth policy of the district administration, Khmilnytsky joint pension fund of Ukraine in Vinnytsia region Enera-Vinnytsia LLC and community residents was held [9]. On March 14, 2019 in the villages of Velykyi Ostrozhok, Vyshenka and Kryzhanivka general meetings of citizens on the work done in 2018 and plans for 2019 have taken place [10].

The above data testify to the effectiveness of the instrument of the general meeting of citizens, despite the fact that the Statute still does not regulate the number of members of the initiative group, which has the right to convene the meeting, the number of signatures in support of the initiative to hold the meeting [11].

In Ukraine, the general meeting of citizens at the place of residence is convened by the mayor on his own initiative or on the initiative of deputies of the city council, executive committee or relevant bodies of territorial self-organization to discuss important issues affecting the interests of citizens [5]. Citizens, residents of territorial communities with the right to vote, for example, natural persons living in the territorial community, are its members have the right to participate in the general meeting of citizens. Thus, they have the right to exercise the right to influence the political, economic, cultural, social, environmental and other processes of development of the territorial community. However, in order to implement the legally prescribed right, it is necessary to improve the legal regulation of the general meeting of citizens at the place of residence, in particular:

- To prepare and approve regulations on the general meeting of citizens;
- To define in detail the list of persons who can initiate the general meeting (for example, officials, deputies, members of the territorial community, etc.);
- To identify the required number of signatures to support the proposal to hold a general meeting of citizens;
- To give the right to residents of the community to elect a chairman at the general meeting;

To identify the necessary documents and their samples, which are necessary for the general meeting of citizens to record the issues discussed and draft decisions;

To establish a rule that will regulate the recognition of the validity of decisions of citizens' meetings (for example, in the presence of 50% of members of the territorial community at the general meeting of citizens).

To ensure that the representatives of the initiators of the general meeting of citizens report during the consideration of the decision of the general meeting [12, p. 14].

In order to increase the efficiency of the general meeting of citizens at the place of residence as an important mechanism of deliberative democracy, local councils should be obliged to regulate the procedure of holding the general meeting of citizens at the place of residence or make changes to the current order so that meetings are held regularly on places [13].

One of the features of the current system of deliberative democracy in Ukraine is the real right of territorial communities to hold public hearings and to meet with deputies of relevant councils and local government officials, during which members of the territorial community can listen to them, raise issues and make proposals on local issues that belong to the jurisdiction of local self-government [5].

For example, on February 14, 2020, in the session hall of the Ternopil City Council, a public hearing of the town-planning documentation «Detailed plan of the territory bounded by Zhivova, street Tantsorova, Heroes of Euromaidan Square, street Doli, street Metropolitan Sheptytsky («Zhyvova» residential district «Central») in Ternopil» [14].

According to the Law of Ukraine «On Local Self-Government in Ukraine» of July 23, 2020 [5], public hearings are held at least once a year. Proposals submitted as a result of public hearings are subject to mandatory consideration by local governments. The procedure for organizing public hearings is determined by the charter of the territorial community. The charter of a territorial community of a village, settlement, city is usually adopted by a representative body of local self-government on the basis of the Constitution of Ukraine and within the Law of Ukraine «On Local Self-Government» to take into account historical, national-cultural, socio-economic and other features of local self-government.

For example, based on the results of public hearings held by the Ternopil City Council, all the proposals were reflected in the protocol, which was posted on the web-site of the city council, and a decision was made on April 15, 2020 «On approval of urban planning documentation «Detailed plan of the territory bounded by st. Zhivova, street Tantsorova, Heroes of Euromaidan Square, street Doli, street Metropolitan Sheptytsky («Zhyvova» residential district «Central») in Ternopil» [15]. This is evidence of the effective implementation of the territorial community's right to public hearings in the city of Ternopil, although,

for example, the Ladyzhyn City Council did not approve the procedure for holding public hearings by meeting with council deputies and local government officials.

There is a need to legally enshrine the right of city residents to initiate public hearings in the statutes of territorial communities, which will allow citizens to raise an important issues and jointly put forward a reasonable proposals to address the issues submitted to the hearing [16, p. 52].

The issue of the competence of the hearings is important. As a rule, in the statutes of territorial communities the competence of public hearings includes such issues as:

- reports of deputies and officials of local self-government;
- discussion of the most important problems of local significance;
- consideration of local initiatives;
- discussion of draft regulations of local self-government.

Decisions based on the results of public hearings are made by open voting and formalized by a resolution, which together with the minutes of their holding is submitted to local governments for consideration. These documents must be signed by the chair of the hearing and the secretary. The terms in which local councils are obliged to consider the results of hearings are determined by local regulations. Questions, appeals and suggestions related to the topic of the hearings are reflected in the minutes as demonstrated by the example of public hearings held by the Ternopil City Council.

Currently, civil society is actively searching for its place in the process of social transformation, in connection with which the problem of establishing effective interaction between civil society and government is relevant. Today in the state there is an active search for effective methods, mechanisms of interaction between the government and civil society. That is why now is the best and most favorable time for the introduction of elements of deliberation in decision-making processes in Ukraine. Although civil society in our country is developing quite rapidly, its interaction with local authorities is often ineffective. Therefore, new approaches should be sought for the implementation of deliberative practices in Ukraine. Given the diversity of forms and methods of implementing deliberative democracy in the world, our country will have to find and adapt its existing methods and approaches, and possibly create new ones.

Conclusions

Thus, at this stage of the deliberative democracy development, the involvement of citizens in solving important social problems of Ukraine is hindered by many factors, without overcoming which it is impossible to count on a more or less optimal model of development of deliberative democracy.

The current legislation of Ukraine provides a wide range of opportunities and forms of citizen participation in the deliberative process. In particular, a

positive trend is the legal consolidation of the mechanisms of deliberative democracy at the legislative level. At the same time, the vast majority of shortcomings of deliberation processes in Ukraine, which affect the life of an individual citizen, community of a village, town or city, mostly remain within the competence of local self-government. Since according to the legislation of Ukraine the detailed procedure for implementing the mechanisms of deliberative democracy is determined by local councils, only full cooperation with citizens will allow the government to develop optimal ways to self-improvement and improve the quality of their work.

Thus, the involvement of citizens in solving local self-government issues is mutually beneficial. With the help of public participation, more effective and efficient solutions can be made through a deeper and broader understanding of problems and issues. Authorities' decisions and proposals will be readily accepted by citizens if their views are taken into account in the process of preparation for these decisions. A well-established process of involving citizens will encourage individuals and groups to participate more actively in community affairs, which will lead to greater responsibility and accountability for what is happening in the community for an even wider population. Involving citizens in the deliberative process, especially those directly affected by approved issues or programs, will increase mutual understanding and create conditions for a broad public consensus in decision-making.

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