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LEGAL LIABILITY OF LOCAL SELF-GOVERNMENT BODIES AND OFFICIALS FOR FAILURE TO IMPLEMENT PROGRAMS OF SOCIO-ECONOMIC DEVELOPMENT OF THE HROMADA

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Abstract. Local self-government is the leading institution of every developed, democratic society. Local self-government is an expression of the legitimate will of the population of a particular administrative and legal unit. That is why the exercise of powers and competence by local self-government bodies and officials is in fact an expression of the will of the population. In times of war, local governments are the closest to the needs of the population. This entity should respond comprehensively, as quickly and effectively as possible to the needs of its constituents. In order to develop the hromada, local self-government bodies are authorized to develop and adopt short-term and long-term (strategies) for the socio-economic development of the hromada. The level and quality of life of the population in a certain territory depends entirely on its successful implementation. The issue of the effectiveness of socio-economic programs of local self-government will be particularly acute in the postwar period, when it will be necessary to rebuild postwar Ukraine and its hromadas. The participation, professionalism, and responsibility of local government executive bodies and their officials will play a crucial role in this process. The authors emphasizes the need for more detailed legislative regulation of the issue of legal liability of executive bodies of local self-government and their officials. Given the above, it seems necessary to provide for the liability of executive bodies of local self-government and their officials for failure to implement programs of socio-economic development of a hromada.

Key words: local self-government, executive committee of the local self-government body, hromada, abalgamated hromada, legal responsibility, offense, illegal act, subject of offense.

JEL Classification: H11, H30, H61, I38, R50, D72

1. Introduction

Local self-government bodies and officials are the entities that are closest to the population, as they express its will and their activities are aimed at meeting the needs of a particular hromada. In order to fulfill their tasks, local governments develop and adopt program documents that allow them to develop a particular area: social, economic, cultural, housing and communal, healthcare, etc. One of the important areas is the socio-economic development of a particular region. The socio-economic development of local self-government is determined within a certain hromada or amalgamated hromada. A program for the socio-economic development of a hromada is a programmatic document that defines

tasks, goals, directions, stages of implementation, a system of measures, responsible entities, sources of funding, and other issues. Local self-government officials are the main entity that forms and subsequently fulfills the obligation to implement the program of socio-economic development of the hromada. The law stipulates that in case of non-performance or improper performance of official duties by local government officials, they are legally liable. So, consider what types of legal liability may be imposed on officials and local governments for failure to perform or improper performance of their duties in relation to the social and cultural development of a particular hromada.

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2. Methodological peculiarities of the study of legal liability of local self-government bodies and officials for failure to implement programs of socio-economic development of a hromada

The primary determining factor that scientists turn to when clarifying the essence, content and legal nature of any concept or phenomenon is the methodology of scientific research. Determining it is an important and complex process, because both the result and the scientific value of the research depend on how logical, complete and objectively correct the methods are. Representatives of different scientific schools, regardless of their conceptual position, pay attention to this. The methodology in general should be considered from the worldview, ontological and epistemological points of view.

"Methodology" (from the Greek methodos – method, technique and logos – science, knowledge) is a teaching about the rules of thinking during the creation of a theory of science (The problem of the method of cognition). In general, domestic legal science considers methodology as a doctrine of the scientific method of cognition or as a system of scientific principles on which research is based and a set of cognitive tools, methods and techniques is selected (Methodology and organization of scientific research).

Summarizing the above, it can be concluded that 1) methodology and method are related to each other as a whole and a part, as a general and a particular, as a system and its component; 2) methodological knowledge exists as a set of philosophical, general scientific, and special methods of scientific knowledge; 3) the methodology is inextricably linked to the choice of a method of obtaining new knowledge about a subject or phenomenon; 4) the methodology of scientific knowledge of restrictions in administrative law is part of the totality of methodologies of branch sciences and reflects the main features of this system and its tools (Chorna, 2019).

The main elements of methodology as a general theoretical category are various general scientific and special methods, which, like potential areas of research, can be classified according to various criteria.

Thus, the method is a structural component of the concept of methodology. "Method", like "methodology", is translated from Greek as a method, a way of research. It is an instrument of the subject used by him/her to cognize the object. In scientific activity, it is the knowledge that is used to obtain new knowledge. That is, one and the same piece of knowledge can be viewed: a) as a theory, as knowledge that is being developed; b) as a method of knowledge by which the theory is developed (Tosaka

Dziun, 1983). In any case, the method is a tool for obtaining knowledge about the studied concept or phenomenon in the scientific field.

The method of dialectical materialism is one of the philosophical methods used, in particular, to understand general theoretical categories. Its application in the study of the activities of local government officials, in particular, allows to determine the compliance of their activities with the program goals and objectives for the socio-economic development of the hromada.

The method of abstraction means to turn away from the richness of the content of a particular phenomenon, to deliberately overlook many aspects and features of the phenomenon, but to reveal the typical, most characteristic and essential in the phenomenon, to determine the laws by which it exists, that is, to reveal it as a scientific category (Horskyi, 1961). Thanks to the abstract concepts connected by the logical system of legal theory, it is possible to express legal reality in all its completeness and specificity (Vasylev, 1976). Thus, without abstraction, it is impossible to reach the categorical level of reality. Application of the method of abstraction in the study of the powers and competence of local government officials from among the subjects of public administration in the socio-economic sphere.

The use of the methods of analysis and synthesis is to study a concept or phenomenon in the process of moving from the concrete to the abstract. The use of the analysis method allows to fully scan the essence of the category under study, while the synthesis method helps to isolate the meaning in the concept or phenomenon under study. To determine the qualitative and quantitative indicators of the implementation of socio-economic development programs by officials and local governments.

The structural method consists in establishing the structure as a set of connections. The method of structuralism is widely used in the study of the types of program goals for the socio-economic development of hromadas and their characteristics.

The functional method is used to study the functions specific to officials and local self-government bodies. It is used to study the real activities of officials and local self-government bodies in the process of implementing legal requirements declared in the programs of socioeconomic development of the hromada.

Today, the method of system analysis (or systemic approach) is considered a universal tool for cognitive activity. In fact, it has become a general scientific principle that generally allows for a systematic and comprehensive approach to the study of legal liability of local self-government bodies and officials for failure to implement programs of socio-economic development of a hromada.

Synergetic method. Studies of the development of open complex systems under the influence of internal and external factors have identified the problem of their self-organization. The term "synergetics" has been used to refer to the processes of self-organization. The task of synergetics is to identify spontaneously formed structures, structures formed as a result of self-organization during the study of systems (Chorna, 2019).

Method of interpretation and hermeneutics. When discussing the correlation between the concepts of "interpretation" and "hermeneutics", one should proceed from the fact that the problems of interpretation are considered within the framework of legal hermeneutics through the categories of "explanation", "meaning", "understanding", "language", "interpretation", and "hermeneutic circle". Hermeneutics (Greek: hermeneuo explain, interpret) is the art of interpreting texts that are based on the grammatical study of language, the study of specific genres and styles of literary works and related historical events (Tsalin, 2002). These methods were used to analyze the provisions of the programs of socio-economic development of the hromada and the results of their implementation by local government officials.

Thus, the application of the above methods made it possible to fully define the key conceptual and categorical definitions of legal liability of local self-government bodies and officials for failure to implement programs of socio-economic development of a hromada. At the same time, it should be noted that the methods discussed above do not exhaust the methodological diversity of approaches to understanding the essence of legal liability of local self-government bodies and officials for failure to implement programs of socio-economic development of a hromada.

3. The role of the state in the socio-economic development of the hromada

The state provides financial support for the voluntary amalgamation of hromadas of villages, towns, cities and accession of amalgamated hromadas by providing funds to the amalgamated hromada in the form of subventions for the formation of the relevant infrastructure in accordance with the plan of socio-economic development of such hromada. Proposals for the provision of financial support to an amalgamated hromada are submitted by the Council of Ministers of the Autonomous Republic of Crimea, the relevant regional state administration upon the submission of the village, settlement, city council of the amalgamated hromada to the Cabinet of Ministers of Ukraine no later than July 15 of the year preceding the budget period in which such

financial support is planned to be provided. The total amount of financial support is distributed among the budgets of the AHs in proportion to the area of the AH and the number of rural residents in the AH, with equal weight given to both factors. The total amount of the subvention for the formation of the relevant infrastructure of the amalgamated hromadas is determined by the law on the State Budget of Ukraine. The procedure for granting subventions from the state budget to AHs is established by the Cabinet of Ministers of Ukraine (About Voluntary Consolidation of Hromadas).

4. Procedure and competence of local self-government bodies and officials to formulate short-term and long-term programs of socio-economic development of hromada

The competence of executive bodies of local self-government includes approval of programs for the socio-economic and cultural development of the respective districts; participation in the discussion of the strategy for the development of hromadas in terms of inter-municipal cooperation within the district (On the Principles of the State Regional Policy).

According to the Methodological Recommendations for the Formation and Implementation of Forecast and Program Documents for the Socio-Economic Development of the Amalgamated Hromada, program documents developed and adopted by authorized local government entities may be short-term and long-term.

If to speak about a short-term program of socioeconomic development, then in this case it is a plan (program) of socio-economic development of the amalgamated hromada, which is a document that defines strategic goals and priorities for the development of the amalgamated hromada for the short and medium term (3 to 5 years), specifies tasks and measures within such goals and priorities, responsible executors and deadlines implementation of measures, funding amounts, sources of funding and indicators for assessing the effectiveness of the Plan's measures. At the same time, if talking about a long-term program of socioeconomic development, it is a strategy for the development of the amalgamated hromada, which is a document that defines strategic and operational goals, indicators (indicators) of their achievement, priorities and tasks for sustainable economic and social development of the amalgamated hromada for a long-term period (7 years) (Methodological recommendations on the formation...).

It should be noted that the development strategy of an amalgamated hromada is part of the state regional policy.

Local self-government bodies are subjects of state regional policy and subjects of development and formation of programs for socio-economic development of the hromada. The state regional policy is a system of goals, measures, means and coordinated actions of central and local executive authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies and their officials to ensure a high level of quality of life throughout Ukraine, taking into account the natural, historical, environmental, economic, geographical, demographic and other features of the regions, their ethnic and cultural identity. The state regional policy is aimed, among other things, at improving the material, financial, informational, personnel and other resource support for the development of regions, and facilitating the exercise of powers by local governments. In order to plan the restoration and stimulate the development of regions and territories, as well as to introduce special mechanisms and tools, the executive authorities and local governments have identified the following functional types of territories: 1) restoration territories; 2) regional growth poles; 3) territories with special development conditions; 4) sustainable development territories (On the Principles of the State Regional Policy).

At the same time, local governments and their officials are the entities that are legally responsible for their implementation. However, it should be emphasized that the provisions of the current legislation governing local self-government relations do not define either the types or the grounds for bringing local governments and their officials to legal liability for failure to implement or improper implementation of socio-economic development programs. It should also be noted that there are ongoing academic discussions in the legal literature on the procedure for holding officials accountable for failure to implement program documents.

5. Principles for determining the participation of local self-government bodies and officials in the formation of programs for the socioeconomic development of the hromada

The forecast of economic and social development is a means of justifying the choice of a particular strategy and making specific decisions by public authorities and local governments to regulate socioeconomic processes.

Local self-government bodies and their officials, when formulating programs for the socio-economic development of a hromada, are guided by the fundamental principles underlying the state regional policy and local self-government policy for the economic, cultural, and social development of a particular hromada.

According to the authors, these principles include:

- the principle of openness, which means that forecast and program documents of economic and social development are available to the public. Information about the goals, priorities and indicators of these documents provides business entities with the necessary guidance for planning their production activities;
- the principle of independence, which means that local executive authorities and local self-government bodies are responsible for the development, approval and implementation of forecast and program documents for the economic and social development of their respective administrative and territorial units within their powers. Forecasting and development of economic and social development programs ensures coordination of the activities of executive authorities and local governments;
- the principle of equality, which means respecting the rights and taking into account the interests of local governments and business entities of all forms of ownership;
- the principle of observance of national interests, which means that executive authorities and local self-government bodies should develop forecast and program documents for economic and social development based on the need to ensure the implementation of national socio-economic policy and economic security of the state (On State Forecasting and Development of Programs for Economic and Social Development of Ukraine).

However, the system of these principles is not exhaustive, as local self-government takes into account the peculiarities of the state regional policy when formulating and implementing socio-economic development programs: 1) legality; 2) cooperation; 3) parity; 4) openness; 5) subsidiarity; 6) coordination; 7) cohesion; 8) historical continuity; 9) ethno-cultural development; 10) sustainable development; 11) objectivity; 12) equal rights and opportunities for women and men; 13) inclusiveness; 14) integrated development.

6. Principles of legal liability of local self-government bodies and officials for failure to implement programs of socio-economic development of the hromada

6.1. Local self-government bodies and their officials as responsible entities for the implementation of programs of socioeconomic development of the hromada

The activities of local government officials in formulating and adopting a socio-economic development program are regulated by law. Thus, Article 26 of the Law of Ukraine "On Local Self-

Government" stipulates that exclusively at the plenary meetings of the village, township, and city councils issues are resolved, including the approval of programs of socio-economic and cultural development of the relevant administrative-territorial units, target programs from other issues of local self-government.

Article 18 of the Law of Ukraine "On State Forecasting and Development of Programs for Economic and Social Development of Ukraine" defines that local self-government bodies develop forecasts of the economic and social development of the Autonomous Republic of Crimea, regions, districts and cities for the medium-term period, programs of economic and social development of the Autonomous Republic Crimea, oblasts, districts and cities for a short-term period and provide control over the implementation of relevant indicators of economic and social development programs of the Autonomous Republic of Crimea, oblasts, districts and cities for a short-term period (On State Forecasting and Development of Programs for Economic and Social Development of Ukraine).

The competent local self-government entities are empowered to monitor the implementation of programs for the socio-economic development of the hromada. The content of monitoring the implementation of programs for the socio-economic development of a hromada is a set of measures for recording, collecting, analyzing and summarizing information from competent entities, which is carried out in order to track and analyze territorial trends, dynamics and structural changes in accordance with the goals, directions and objectives of the state regional policy. The objects of monitoring are socio-economic processes and the results of socio-economic development of hromadas and amalgamated hromadas.

Article 27 of the Law of Ukraine "On Local Self-Government" clearly defines the list of own and delegated powers of executive bodies of village, town and city councils. In other words, this provision regulates the list of rights and professional duties that these entities must fulfill.

Having carried out a legal analysis of this provision, it is possible to distinguish actions in the field of socio-economic development of local self-government for which local self-government bodies and officials may be held legally liable:

1) failure to prepare or untimely preparation of programs for the socio-economic and cultural development of villages, towns, cities, and targeted programs on other self-government issues, submission of them for approval by the council, organization of their implementation; submission of reports to the council on the progress and results of the implementation of these programs;

- 2) failure to ensure balanced economic and social development of the respective territory, efficient use of natural, labor and financial resources;
- 2-1) failure to promote and efficiently use territories and facilities for the needs of cinematography, untimely development of local programs of financial support for cinematography and local programs for using the potential of the local cinematography service sector:
- 2-2) coordination with cinematography entities on issues related to filming on the territory of the respective hromada at the request of film commissions;
- 3) failure to draw up balances of financial, labor resources, monetary income and expenditures necessary for managing the socio-economic and cultural development of the respective territory;
- 4) untimely review of draft plans of enterprises and organizations belonging to the municipal property of the respective hromadas, submission of comments and suggestions to them, and control over their implementation;
- 5) failure to submit or untimely submission to district and regional councils of the necessary indicators and proposals to the programs of socio-economic and cultural development of the respective districts and regions, as well as to the plans of enterprises, institutions and organizations, regardless of ownership, located in the respective territory, on issues related to the socio-economic and cultural development of the territory, meeting the needs of the population;
- 6) involvement on a contractual basis of enterprises, institutions and organizations, regardless of ownership, in the integrated socio-economic development of villages, towns and cities, and coordination of this work in the respective territory;
- 7) not placing orders on a contractual basis for the production of products, performance of works (services) necessary for the hromada at enterprises, institutions and organizations;
- 8) misuse of social assistance funds for persons with disabilities, determination of the procedure and conditions for spending these funds (On Local Self-Government);
- 9) improper disposal of municipal property;
- 10) delay in reviewing and approving plans of enterprises, institutions and organizations that are not municipally owned by the respective hromadas, the implementation of which may cause negative social, demographic, environmental and other consequences, preparing conclusions and submitting proposals to the relevant authorities;
- 11) inadequate maintenance of statistical records of citizens permanently or temporarily residing in the relevant territory;
- 12) inappropriate provision of administrative services by executive authorities through administrative service centers (On Local Self-Government).

It should be noted that the legal fact of bringing local self-government bodies and officials to legal liability is a court decision (Chorna, Batanova, Kitsen, 2020).

6.2. Political liability of local governments and their officials for failure to implement programs of socio-economic development of the hromada

Determining the grounds for legal liability of local self-government bodies and officials is an important issue for the realization of public responsibility. After all, these entities represent the interests of the population of a certain hromada and are an important guarantee of the rule of law. It should be noted that in a number of countries (Estonia, Latvia, Lithuania), the inability of local governments to fulfill their powers is grounds for dissolution of the entire council.

Local self-government bodies and officials are responsible for their activities to the hromada, the state, legal entities and individuals. The grounds, types and procedure for liability of local self-government bodies and officials are determined by the legislation of Ukraine.

Legislation defines several components of political responsibility of local self-government bodies and officials. In particular, these are:

- 1) responsibility of local self-government bodies and officials to hromadas stipulates that local self-government bodies and officials are accountable, controlled and responsible to hromadas. They periodically, but at least twice a year, inform the population about the implementation of socio-economic and cultural development programs, the local budget, and other local issues, and report to local hromadas on their activities. A hromada may at any time early terminate the powers of local self-government bodies and officials if they violate the Constitution or laws of Ukraine, restrict the rights and freedoms of citizens, or fail to ensure the exercise of the powers granted to them by law (On Local Self-Government);
- 2) the responsibility of local self-government bodies and officials to the state stipulates that local self-government bodies and officials are accountable to the relevant executive authorities in the exercise of their delegated powers.

One of the forms of responsibility of executive committees and officials of local self-government bodies to the population is the early termination of powers, which retains its importance as an element of municipal democracy.

6.3. Civil liability of local self-government bodies and officials for failure to implement programs of socio-economic development of the hromada

Local self-government bodies and their officials may be held civilly liable for failure to implement programs for the socio-economic development of a hromada if such actions have caused damage to legal entities and individuals. Damage caused is compensated at the expense of the local budget, and as a result of illegal decisions, actions or inaction of local self-government officials — at their own expense in accordance with the procedure established by law. Disputes on the restoration of violated rights of legal entities and individuals arising from decisions, actions or inaction of local self-government bodies or officials are resolved in court.

6.4. Municipal legal liability of local self-government bodies and officials for failure to implement programs of socio-economic development of a hromada

The national program for the development of small towns obliges local governments and their local officials to ensure the development of local programs for the socio-economic and environmental development of small towns, and to adjust master plans, develop local development rules, strengthen the interaction of local governments with state, municipal and private enterprises on the development of small towns, effectively use the powers of local governments to generate their own revenues, promote the development of small towns, and ensure the implementation of the above programs.

Failure to fulfill (or ineffective fulfillment of) the above tasks of local governments is a violation of the Law of Ukraine "On Approval of the National Program for the Development of Small Cities" and, accordingly, may result in municipal liability in the form of early termination of powers of local governments and their officials.

It should be noted that under the current legislation, the legislator does not distinguish such a type of legal liability as municipal liability. However, given the importance and role of local governments and their officials, the issue of applying liability measures to them is gaining increased attention and relevance.

7. Conclusions

In wartime, local governments are the closest to the needs of the population. This entity should

respond comprehensively, as quickly and effectively as possible to the needs of its constituents. In order to develop the hromada, local governments are authorized to develop and adopt short-term and long-term strategies for the socio-economic development of the hromada. The level and quality of life of the population in a certain territory depends entirely on the successful implementation of these strategies.

The issue of the effectiveness of socio-economic programs of local self-government will be particularly acute in the postwar period, when it will be necessary to rebuild postwar Ukraine and its hromadas. The participation, professionalism and responsibility of local government executive bodies and their officials are crucial in this process.

It was noted that local governments and their officials are entities that are legally responsible for failure to fulfill their tasks. However, it should

be emphasized that the provisions of the current legislation governing local self-government relations do not define either the types or the grounds for bringing local governments and their officials to legal liability for failure to implement or improper implementation of socio-economic development programs. It should also be noted that there are ongoing academic discussions in the legal literature on the procedure for holding officials accountable for failure to implement program documents.

The author emphasizes the need for a more detailed legislative regulation of the issue of legal liability of executive bodies of local self-government and their officials. Given the above, it seems necessary to provide for the liability of executive bodies of local self-government and their officials for failure to implement programs of socio-economic development of the hromada.

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