



TESIM

Technical support to the implementation and management of ENI CBC programmes

The structure of local governance in Ukraine and related funding mechanisms

Description and implications in the use of EU funds

March 2021

DISCLAIMER

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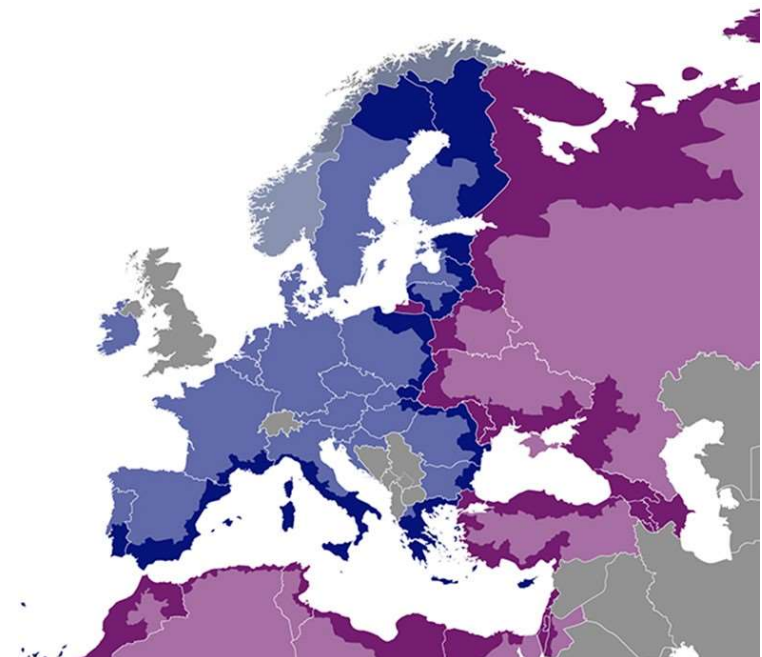


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1. Aim of the document

The structure of local governance in Ukraine has its own characteristics, which are reflected in the management of financial resources in the sphere of local self-government. This document aims at providing the necessary information to the programme bodies and the Ukrainian auditors in charge of expenditure verification at project level, as well as to applicants and beneficiaries from the other participating countries, about the financial mechanisms behind this structure.

The last section of the document may also be of interest to the Ukrainian local authorities, as it tackles the applicable rules in the framework of EU-funded projects, which may differ from the usual interpretation of the Ukrainian legislation.

2. Local governance structure

The local governance consists of:

- the village, town, or city chairperson (hereinafter referred to as “the mayor”) and his/her patronage service,
- executive bodies (divisions, offices, departments),
- municipal institutions (schools, kindergartens, hospitals, etc.),
- municipal enterprises,
- executive committee (a body created by the council as advised by the mayor),
- councils and permanent and temporary control commissions (as collegial bodies consisting of elected deputies).

A mayor appoints and dismisses heads of executive bodies, municipal institutions, and enterprises, exercises current control over their activities, defines the main directions and powers.

Council and Executive Committee are designed as free collegial authorities. Decisions are taken through open discussion by voting by the collegial authority, consisting of persons working on a voluntary basis.

The key documents in the organisation of the activities of local authorities are the **Charter of the territorial community and the Regulations of the local council, which define a detailed list of structural subdivisions of local authorities**. Each local authority has its own charter.

3. Duties of a mayor

A mayor is the key official of a territorial community of the villages, communities of villages¹, settlements and cities, respectively. A mayor chairs the executive committee of a relevant village, settlement and city council and chairs its meetings.

A mayor shall not be a member of any other council, **must not combine his or her official activity with another position, including on a voluntary basis**, or engage in other paid or entrepreneurial activity, except for teaching, research and art activity, medical practice, instructor, and referee practice in sports.

The authority of a mayor **may be temporarily entrusted to the chief of the respective civil-military administration** in accordance with the [Law of Ukraine "On Civil-Military Administrations"](#).

In the exercise of the powers granted, a mayor is accountable to the territorial community, responsible to the relevant council, and in matters concerning the exercise of the powers of the executive council by the executive bodies is also supervised by the relevant executive bodies.

The authority of a mayor is defined in part 4 of article 42 of the Law of Ukraine "[On local self-government in Ukraine](#)". A mayor²:

- submits for consideration of the council proposals on the structure of executive bodies of the council, the staff of the council and its executive committee. Their staff lists are established in accordance with the standards approved by the Cabinet of Ministers of Ukraine.
- ensures the preparation of draft programmes of socio-economic and cultural development, targeted programmes on other issues of self-government, the local budget, and a report on its implementation.
- appoints and dismisses heads of divisions, departments and other executive bodies of the council, enterprises, institutions, and organisations belonging to the municipal property of the respective territorial communities, except for heads of pre-school, general education, and out-of-school educational institutions.
- acts as a manager of budgetary funds and uses them only for the purpose defined by the council.
- represents the territorial community, the council, and its executive committee in relations with state bodies, other local government bodies, citizens' associations, enterprises, institutions, and organisations, irrespective of their form of ownership, citizens, as well as in international relations in accordance with legislation.

¹ Voluntary association of residents of several villages into one territorial community.

² Only functions relevant to the implementation of cross-border cooperation programmes are listed.

- enters into agreements on behalf of the territorial community, the council, and its executive committee in accordance with the legislation, and on issues within the exclusive competence of the council, submits them for approval to the relevant council.

4. Who helps a mayor to manage the territorial community?

The executive committee is a collegial body that is created by decision of a council. A city mayor has the right to propose candidates for an executive committee.

The Law referred to in the previous point does not contain clear requirements on the number or personnel of an executive committee. There is a direct restriction on members of the local council (except for the council secretary) from being members of an executive committee. However, an executive committee must necessarily include a mayor and a council secretary.

The number of members of an executive committee is determined by a council itself in the decision on its establishment. As a rule, the number of positions corresponds to the political requirements of the main players that influence the council's decision-making (deputy factions and groups, etc.).

The executive committee of a council is accountable to and controlled by the council that created it. An executive committee carries out its activities in the form of meetings. The law requires an executive committee to meet at least once a month.

The executive committee of a Council:

- 1) preliminarily considers the drafts of local programmes for socio-economic and cultural development, targeted programmes on other issues, local budget, draft decisions on other issues that are submitted to the relevant council.
- 2) co-ordinates the activities of departments, offices and other executive bodies of the council, enterprises, institutions, and organisations belonging to the municipality of the respective territorial community and hears reports on the work of their heads.
- 3) has the right to change or cancel the acts of the departments, divisions, departments, and other executive bodies of the council that are subordinate to it, as well as their officials.

Divisions, departments, and other executive bodies of the village, settlement, city, and district councils in the city are created by the council. Departments, offices, and other executive bodies of a council are accountable and controlled by the council which established them and are subordinated to its executive committee and to the mayor. The heads of departments, offices and other executive bodies of a council are appointed and dismissed by the mayor, and in cases provided for by the law, by agreement with the relevant executive bodies. **Some departments and offices of a city council may have the status of separate legal entities.**

5. Municipal enterprises

A local council has the authority to decide whether to establish a municipal enterprise, institution, or organisation.

A municipal enterprise in Ukraine is an independent business entity that can carry out industrial, research and commercial activities that generate income³.

Local authorities may create, reorganise, and liquidate municipal enterprises (institutions, establishments). The municipal enterprises are accountable to local authorities and controlled by them. The responsibilities of executive committees of the village, settlement, and city councils, in accordance with their powers to manage municipal property, include establishing procedures and exercising control over the use of municipal enterprises' profits, and hearing reports on the work of their managers.

The founder of a municipal enterprise is, **on behalf of the city council, the relevant structural unit (division, department etc) of the executive committee** (e.g., the education department or the housing and public utilities department), **depending on the type of activity.**

Important!

Each municipal authority, organisation and enterprise must have its own charter. Municipal enterprises in Ukraine have independent financial balances and their own bank accounts for non-budgetary funding are NOT consolidated with the budget accounts of local authorities.

6. Funding arrangements for local authorities

The funding of local government authorities is organised through the finance unit (department) of the respective city (settlement) council, **as the accounts of the departments and offices of a local council are combined with the budget accounts.**

The **main function of the finance department is to organise the work on preparation and implementation of the local budget in accordance with the requirements of the Budget Code of Ukraine.**

The finance department (unit or division)⁴:

³ Some of these entities may generate profit, some of them cannot.

⁴ Only functions relevant to the implementation of cross-border cooperation programmes are listed.

- makes proposals to the executive committee and the city council on the composition of revenues and expenditures of the budgets in accordance with the procedure established by the Budget Code of Ukraine.
- carries out work on placement of temporarily free funds of the special fund of the local budget on deposit accounts in banks.
- prepares and approves monthly lists of income and expenditures for a respective budget year by economic and functional classification codes and by the administrators of the funds. Amendments to this monthly schedule of income and expenditure by economic and functional classification codes, by months and, if necessary, between funds administrators.
- performs other related functions.

Important!

The accounts of the departments and offices of a local council are combined with the budget accounts of relevant cities (villages or settlements).

7. A sole beneficiary in EU-funded projects

The organisational structure of the city council depends on the size of the city. A **typical general structure of a city government of large cities** with a district division is shown in **Figure 1** below. A typical general **local government structure of small towns with villages** under their control is presented in **Figure 2** below.

The number of departments and municipal enterprises is not fixed. Regardless of the size of the city council, the budgets of executive bodies (departments and divisions) are approved by the city council.

Even though the city councils are not responsible for the debts of municipal enterprises according to Ukrainian legislation, the executive authorities, which are the founders of municipal enterprises, control their activities. However, the EU legislation is applicable to local authorities in regards to the use of the EU funds, in conformity with the financing agreements between Ukraine and the European Commission.

According to Article 187 of Financial Regulation 2018/1046, the **city council, the executive government departments (divisions) and municipal enterprises** are affiliated persons and should be considered as a **sole beneficiary in regard to EU grants**. What does this imply?

Important!

All the bodies in the municipal structure are considered as a sole beneficiary, which implies:

- *Any of the executive bodies can receive the EU-grant on behalf of the municipality, even if the grant was awarded to the council, but they **MUST BE IDENTIFIED** in the grant contract as affiliated entities, not as project beneficiaries,*
- *The expenditure by any of these bodies identified in the grant contract can be considered as eligible. The expenditure cannot be accepted as eligible if not included explicitly in the contract,*
- *The municipality is liable for any recovery order to any of its bodies (the municipality cannot pay a debt of a municipal enterprise directly, but as a shareholder can put them under obligation to pay a debt),*
- *In case of unsuccessful recovery from one of the bodies, the managing authority or the European Commission through the EU Delegation may offset the debt against other grants. Moreover, the city council may be vetoed to further grants until the debt by any of the bodies is paid.*

Figure 1.
Typical general structure of a city government of large cities with a district division

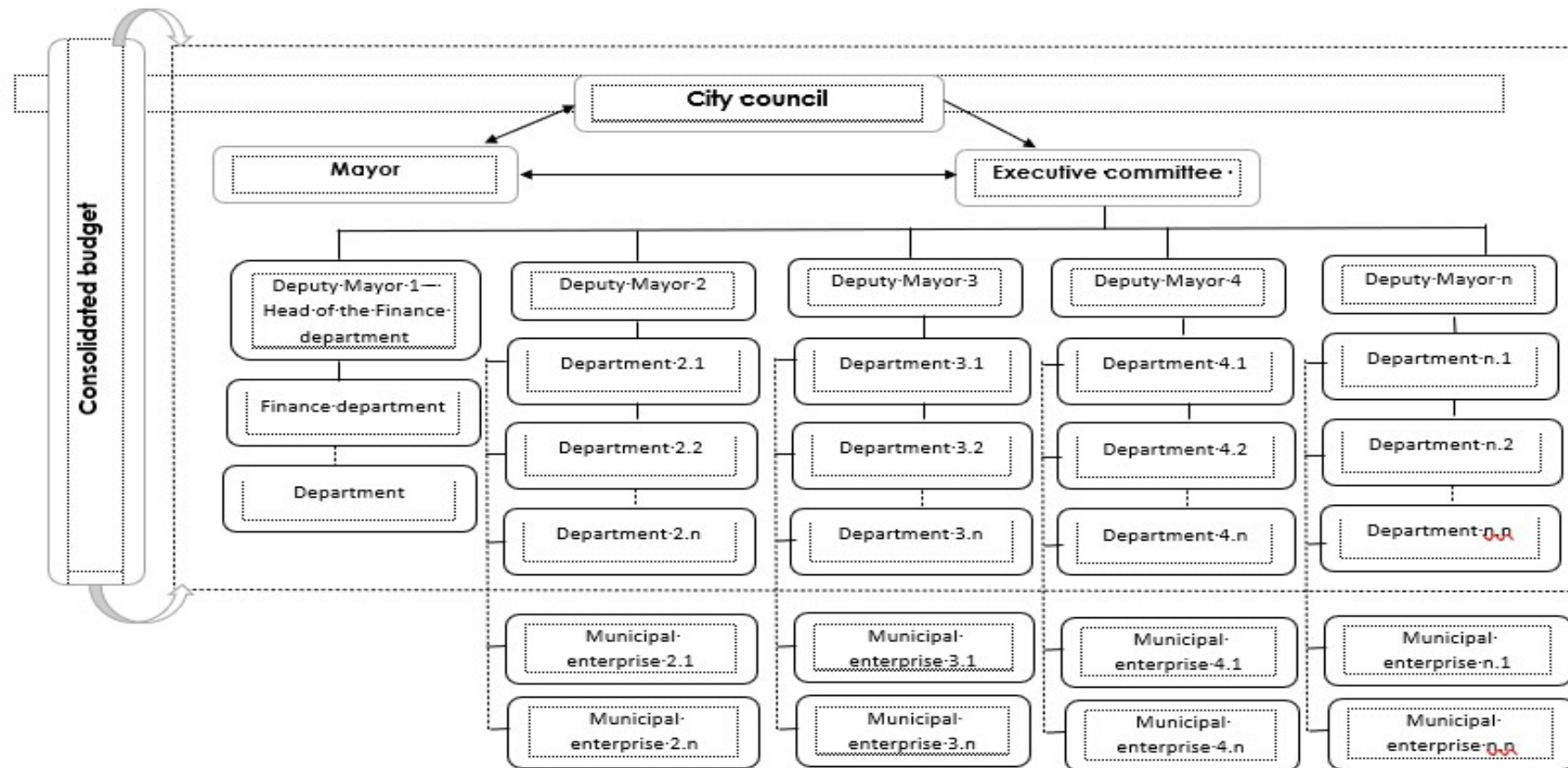


Figure 2.
Typical structure of local governance of small towns with villages under their control

