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## NEW PRINCIPLES OF FORMATION OF STATE SUPERVISION OVER THE LEGALITY IN THE SYSTEM OF LOCAL SELF-GOVERNMENT

Tamara Lozynska<sup>1</sup>, D.Sc. in Public Administration; Andriy Stoika<sup>2</sup>  
Oleksandr Kalian<sup>3</sup>, PhD in Law; Bohdan Strilets<sup>4</sup>, PhD in Law

<sup>1</sup> Poltava State Agrarian University, Ukraine

<sup>2</sup> Poltava State Agrarian University, Ukraine

<sup>3</sup> Poltava State Agrarian University, Ukraine

<sup>4</sup> Poltava State Agrarian University, Ukraine

**Corresponding author:** Bohdan Strilets; Email: bohdan.strilets@pdau.edu.ua

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### Abstract

In 2016, the system of state control over the legality of decisions of local self-government bodies, within which general supervision was entrusted to the prosecutor's office, was abolished, but a new mechanism for such supervision has not yet been created. The lack of a new mechanism of state supervision over the legality of decisions of local self-government bodies increases the risks of the spread of legal nihilism and does not meet the goals of Ukraine's European integration. Hence there is a need to substantiate the new principles of building a system of state supervision over the legality of decision-making by local self-government bodies.

The reasons for the change in the mechanisms of state supervision over the legality in local self-government have been identified. The trends of the transformation of the system of local self-government and state control over the legality of the activities of local self-government bodies are outlined. The conclusions of representatives of local self-government bodies and experts regarding the principles of state supervision are systematized. The components of the general model of state supervision over the legality of decision-making by local self-government bodies are substantiated. Conclusions regarding the architecture of the model of state supervision have been formed. The main principle of the formation of the system of state supervision over the legality of decision-making by local self-government bodies is to maintain a balance between the freedom of decision-making and the pressure of the force of laws in the decentralized sphere of public administration. It is fundamentally important to separate three types of supervision (administrative, financial, and public) and three components of the general supervision model: supervision by state institutions, internal supervision, and public control.

**Keywords:** state supervision, state control, legality, local self-government, self-government principle, self-government model.

### Introduction

Freedom of activity of individuals and state institutions is exercised in a certain social environment, where interconnected social institutions form a complex hierarchical structure (Stoika, 2023, p. 334-337), yet government actors, interacting inside of it, hardly manage to act in accordance with legislative rules, what requires the creation of a system of control or supervision over legality. In 2016, supervision over the legality of local self-government decisions (hereinafter referred to as LSG) by the general prosecutor was abolished,

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creating, as a consequence, a legislative gap and making the issues of building a new system of state supervision over the activities of LSG extremely relevant.

The definition of form in which Ukrainian public authorities should ensure legality in the system of local self-government (control or supervision) is now of fundamental importance since it concerns the preservation of conditions for the development of territorial communities while complying with the legislative requirements for the activities of local self-government. Article 20 of the Law on Local Self-Government in Ukraine (Verkhovna Rada of Ukraine, 1997) being in force at the moment of writing this paper, clearly says that state control is exercised over the activities of local self-government bodies and officials. This rule also corresponds to some extent to Article 143 of the Constitution of Ukraine, which states, in particular, that "local self-government bodies are under control of the relevant bodies of executive power regarding implementation of their powers of an executive authority" (Verkhovna Rada of Ukraine, 1996). However, in 2016 The Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine developed a draft law on Amendments to Certain Legislative Acts of Ukraine (on the implementation of state supervision (control) over the compliance of local self-government decisions with the Constitution and laws of Ukraine), which along with the term "control" uses the concept of "supervision", without sufficiently clarifying whether these terms are identical or synonymical (Institute of Linguistics..., 1978), i.e. similar in meaning with a difference in sounding.

### Literature Review

Among the works studied during the preparation of this paper, attention was drawn to the research results of Velychko (Velychko, 2016, p. 95-114), Yemelianenko (Yemelianenko, 2016, p. 73-75), Kasianenko (Kasianenko, 2022) on control over the activities of officials of LSG; ideas of Lukeria (Lukeria, 2023), who substantiates the need to create institutions of state control of prefectural type; studies of Minakova (Minakova, 2022, p. 64-72) and Palchuk (Palchuk, 2019, p. 51-59) on the issues of state control over the activities of LSG in the conditions of decentralization.

Consequently, the problem of state formation of a mechanism that ensures compliance with the rule of law in the system of local self-government includes several aspects:

- a clear definition of the form that identifies compliance with the rule of law in local self-government: whether it is exercised in a form of supervision or control;
- substantiation of the principles for building a system of state supervision (or control) over the compliance of local self-government decisions with the laws and the Constitution of Ukraine;
- development of a model of state supervision (or control), that could make it possible to balance the independence of local self-government in local affairs with the supervision over legality of their activity.

### Methodology

The research is based on methodological provisions of national and foreign scholars related to the principles of good governance, which are peculiar to the European practice of municipal management. When conducting the research, innovative provisions of draft normative acts, data of expert surveys, methods of analysis and synthesis, as well as a retrospective method, comparative analysis, theoretical modeling, and graphic visualization were used.

### Correlation between the Terms "State Control" and "State Supervision"

In most cases, when studying the need to create a mechanism close to the European practice of tracking compliance of LSG decisions, authors use such terms as "control" and "supervision" as synonyms and, in our view, this approach is not in the spirit of the European Charter of Local Government, which provides only administrative oversight over the activities of LSG (Council of Europe, 1985). Using the method of general semantic analysis, we will try to explain the difference between these terms, since the interrelation between a sign and its meaning (base and predicate) is formed by people depending on many conditions.

The concept of "control" according to its initial content (from Middle French "contrerole" – a list kept in duplicate) meant repeated recording in order to verify the original information, as well as observation for the purpose of verification (Rudnyckyj, 1985). In the English-speaking environment "control" means domination, power, coercion and, given the spread of the English context, the perception of the term "control" has received a negative connotation.

As for the term "supervision", its use in the Ukrainian academic environment is quite often associated with a mild form of control that does not provide for excessive interference in the activities of a controlled

object, thereby Denisova notes that "... the legislator emphasizes preemptive, preventive nature of state supervision, its focus on ensuring law and order in a particular area of society" (Denisova, 2016, p. 16-19). Polish researchers believe that supervision involves direct interference in the activities of a certain subject with the aim of correcting those activities according to recommendations of a supervisory authority (Izdebski & Kulesza, 2004; Jagielski, 2018). In this context, it should also be noted that administrative supervision is considered to be a function of executive power (Kiuriené, 2020). For a more detailed analysis of the differences between the concepts of "state control" and "state supervision" in terms of their normative-legal support, it is reasonable to refer to Pavlyk (Pavlyk, 2017).

We cannot but agree with the author that the legislation lacks a clear distinction between the concepts of "state control" and "state supervision", and we also support his view that supervision is a function of control, which has a preventive nature and is usually applied in regard to entities that are not subordinate to a supervisory authority. Consequently, if we consider the mechanisms to ensure compliance with legislation in LSG decision-making, it is more appropriate to do it within the framework of state supervision implementation.

### **Justification of the Principle of Building a System of State Supervision (Soft Control)**

In order to obtain operational information on the opinion of local self-government's representatives on the current condition of state supervision over the legality and principles of its implementation, we conducted a survey based on an examination of a small group of professionals related to local self-government, whose opinion on the problem is insufficiently learned. The frequency of the examination was one-time; the scale of implementation was local. The survey was selective in nature, but representatives of all types of local self-government bodies of the primary level were involved in it, namely rural, township, and city, which was aimed at ensuring the representativeness of the results. The sample was clustered: five representatives were recruited from each group of local self-government bodies, as well as five others from associations of local self-government bodies, in total there were 30 experts. The research was conducted in the form of an e-mail questionnaire; all questions were close-ended.

The survey, in which representatives of local self-government bodies in Poltava, Sumy, and Kyiv regions took part together with experts of associations of local self-government bodies, demonstrated that more than 40% of respondents have witnessed the facts of legislative violations by local self-government bodies during their practical activities (Fig. 1).

It is interesting that the similar structure of distribution of respondents is remarkable for revealing their attitude towards the abolition of the prosecutor's supervision over the legality of the decisions of LSG.

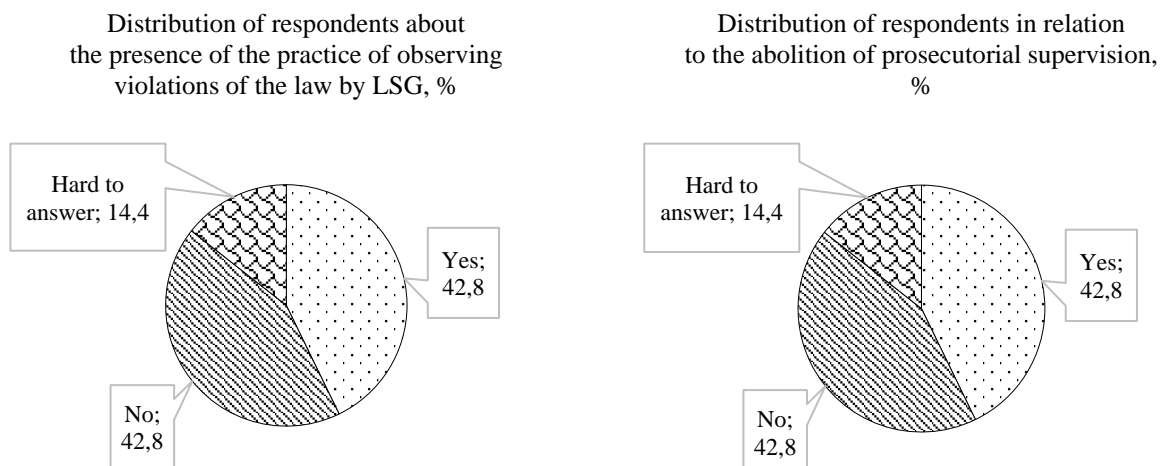
Guided by Article 8 of the European Charter of Local Self-Government (Council of Europe, 1985) it is possible to formulate the fundamental principle of state supervision over the legality of decision-making in the sphere of local self-government:

– the framework of state supervision over the activities of local self-government bodies limits the functionality of supervisory authorities to monitoring the compliance of LSG acts with law and terminating their validity while simultaneously applying to court in case when violations of law are identified.

Thus, legislation should clearly stipulate that bodies of state supervision may only carry out an examination of LSG decisions, and if the latter do not comply with the Constitution or laws of Ukraine, supervisory authorities terminate such decisions with a simultaneous appeal to court, entitled to make a final decision.

The "soft control" approach is incorporated in the draft Law of Ukraine on Amendments to Certain Legislative Acts of Ukraine (on the implementation of state supervision over the compliance of local government decisions with the Constitution and laws of Ukraine) (Association of Cities of Ukraine, 2016), which corresponds to the practice of most European countries. The rationale for the use of new principles of state supervision over the legality in the system of local self-government and reservations about possible negative consequences are shown in Table 1.

It should be noted that at present, in the absence of general supervision over the legality, certain areas of the activities of LSG are controlled by executive authorities: the State Tax Service of Ukraine, the State Customs Service of Ukraine, the State Environmental Inspectorate of Ukraine, the State Treasury Service of Ukraine, the Accounting Chamber of Ukraine, etc. Control over various types of LSG activities has its own characteristics and forms of implementation (for example, budgetary control may be carried out in the form of expertise, inspection, audit, and monitoring), and therefore, there is a need to classify all decisions made by local self-government bodies. There are decisions of local self-government bodies



**Fig. 1. Distribution of respondents regarding the existence of practice of observing violations of law on the part of LSG and attitudes towards the abolition of prosecutorial supervision, %**

*Source: authors' study.*

subjected to special or to general supervision. The proposal of Lukeria (2023) to distinguish a category of decisions that, in conditions of the Russian military aggression, have to be canceled immediately on the day of their adoption, seems to be reasonable as well. These are decisions, which have signs of separatism, collaborationism, espionage, etc.

It is crucial to ensure the possibility for LSG to receive advice from the supervisory body on the issues that cause doubts, which is especially necessary in conditions of rapid changes in the legislation caused primarily by external circumstances, and establishing a certain time interval to eliminate the comments and avoid court proceedings.

However, the results of the survey showed some uncertainty of the respondents' attitude towards the possibility of introducing the principle of immediacy (78,5% of the respondents have difficulties with the expediency of its introduction), though 71,4% of the surveyed called the legality in the system of local self-government to be satisfactory (Table 2).

Consequently, a new approach to the formation of the institution of general supervision over the legality of decision-making in the system of local government must be based on a fundamental principle: respect for the balance between the freedom of decision-making by local councils and the power of laws in the decentralized sphere of public administration.

As far as this principle, formulated by the authors in the table above, is also one way or another determined in the studies of other researchers without consequently causing any doubts and objections because it is conditioned by the logic of the decentralization process, the search for an acceptable model of implementation of state supervision continues. Analysis of the use of existing instruments of state control over the activities of local self-government bodies allows us to agree with those researchers who note their imperfection and ineffectiveness Velychko (Velychko, 2016), Yemelianenko (Yemelianenko, 2016), Kasianenko (Kasianenko, 2022), Minakova (Minakova, 2022)). All this, as Velychko notes, "... often leads to duplication of functions for supervisory authorities and does not provide the necessary level of coordination and exchange of information, the proper elimination of revealed offenses, the focus of subjects of state control on the prevention of offenses" (Velychko, 2016, p. 103). Recently, we have seen a convergence of academic views on the expediency of distinguishing state and public supervision (control) and setting financial control as a specific state function apart from the integrity of state supervision. However, we are not searching for an answer to the question of what the model of general state supervision should look like and how a state, local self-government, and public organizations have to interact in this model.

Table 1

**Principles of State Supervision over the Rule of Law in the System  
of Local Self-Government**

Principles	Rationale for use	Cautions
1. Non-interference with activities	Support for autonomy and empowerment of territorial communities, which is also paramount for their self-preservation (Kalian, et al., 2023, p. 80)	Weak professional training of the deputy corps leads to an increased risk of power abuse
2. Insubordination	Impartiality in the examination of decisions	The risk of corruption is not excluded
3. Priority	Priority of expert evaluation of those decisions that can have the most negative consequences	Additional time spent on preparation, verification, and examination of documents
4. Immediacy	The prioritization of decisions that pose a threat to the country's national security and must be terminated immediately	Contradiction with the principle of separation of powers, whereby such decisions should be made by court
5. Counseling	Exercising the right to receive explanations and interpretation of legislative rules	The risk of increasing the number of supervisory bodies and overspending budget funds to consult managers with a low level of professionalism
6. Competence	Representatives of supervision bodies must be highly qualified to avoid abuse of power	The question arises about the subject of evaluating the competence of employees of supervisory authorities
7. Responsibility	The inadmissibility of errors in the examination of documents	The burden of personal responsibility in the system of subject-to-subject relations may lead to the proliferation of corrupt relations

*Source: authors' study.*

Table 2

**Results of an expert survey on the state of compliance with the rule of law in local self-government  
and the principles of formation of a new model of state supervision**

Assessment of the state of legality in the system of local self-government		Areas with the biggest violations of the rule of law (no more than three options)		Attitude towards the idea of introducing a category of LSG decisions requiring repeal on the day of their adoption ("immediacy")		Attitude toward the idea of including internal supervision in the general law enforcement model	
answers	%	answers	%	answers	%	answers	%
excellent	0	land management	85,7	positive	7,2	yes	42,8
good	21,4	state procurements	50,0	negative	14,3	no	21,4
satisfactory	71,4	road maintenance	42,8	difficult to answer	78,5	difficult to answer	35,8
unsatisfactory	7,2	other	14,3				

*Source: authors' study.*

**Justification of the Model of State Supervision over Legality in Local Self-Government**

Most European countries (France, Germany, Denmark, Poland, Lithuania, and others), guided by provisions of the European Charter of Local Self-Government (Council of Europe, 1985) on the need

to respect the rule of law, have created systems of administrative supervision over the legality in local self-government. Of course, those models differ depending on historical traditions, development of civil society, culture of the population, level of corruption in power, competency of municipalities, and other more general factors, like, for example, the form of government. The duration of the tradition of granting financial autonomy to self-governments determines the level of rigidity of state supervision model and the number of institutions that provide it (Table 3).

Thus, in Denmark the transformation of the system of state supervision was carried out in the direction of reducing the number of supervisory authorities and limiting relevant functions to monitoring: in 2017, the powers of state administrations in regions (there are five of them in Denmark) to supervise the activities of local governments were transferred to the National Board of Public Appeals (Ankestyrelsen), subordinated to the Ministry of Social Policy and Internal Affairs (SKL International, 2020). The National Collegium supervises only the legality of decision-making by local decentralized administrations, but not the validity and appropriateness of local authorities' decisions.

Table 3

**Peculiarities of models of state supervision over the rule of law in local government  
in some European countries**

Country	Institutional support of state supervision	The main powers of the supervisory authority	Source of information
Denmark	<ul style="list-style-type: none"> <li>– Before 2017 – state regional administrations;</li> <li>– Since 2017 – National Board of Public Appeals</li> </ul>	Monitoring the legality of normative acts adopted by local decentralized administrations	Local Government in the Nordic and Baltic Countries. An Overview. Revised Version, 2020
Estonia	<ul style="list-style-type: none"> <li>– Department of Justice (DJ);</li> <li>– Chancellor of Justice (CJ);</li> <li>– National Audit Office (NAO).</li> </ul>	DJ: supervision over the legality of municipal acts and appeals to the administrative court; CJ: supervision over the conformity of municipal acts with the Constitution and appeals to the Supreme Court; NAO: monitoring the legality of use of municipal funds, but not evaluating the appropriateness of their use	Local Government in the Nordic and Baltic Countries. An Overview. Revised Version, 2020
Latvia	Department of Environment and Regional Development	Checking the legality of local government regulation before its official publication	Local Government in the Nordic and Baltic Countries. An Overview. Revised Version, 2020
Germany	<ul style="list-style-type: none"> <li>– County Administrative Office (Landratsamt) (CAO);</li> <li>– Municipal agencies (MA);</li> <li>– Constitutional Courts of Berlin, Bremen, and Hamburg (CC);</li> <li>– Line ministries (LM)</li> </ul>	CAO: supervision over the municipal level of government; MA: supervision over municipalities and rural districts; CC: legal supervision over city-state authorities (individual districts not controlled by higher authorities); LM: technical supervision, which includes not only monitoring the legality but also determining the appropriateness of taken decisions	Overview of administrative supervision of local authorities' activities in selected countries, 2020.
Poland	<ul style="list-style-type: none"> <li>– Voivode;</li> <li>– Accounting chambers (ACh);</li> <li>– Administrative court (AC)</li> </ul>	Voivode: assesses the compliance of decisions with law after their adoption and cancels unlawful decisions; ACh : exercise financial control; AC: reviews complaints of local authorities	Local Government in the Nordic and Baltic Countries. An Overview. Revised Version, 2020

*Source: authors' study.*

In Germany, which is a federal country, the system of state supervision is correspondingly more complex. Municipalities (the local level of government in Germany), formed and reformed at different times, have differences in governance under the legislation of different levels (Council of Europe, 2020).

In Poland, the system of state supervision over the legality of local self-government decisions is quite rigid, since voivodes (representatives of the Council of Ministers in the voivodeship) have the right to cancel decisions of local authorities.

In case of disagreement, local authorities may challenge the voivode's decision in the administrative court. Financial aspects of the activities of Polish municipalities are controlled by the regional accounting chambers and the Supreme Court of Auditors. The lack of the possibility for preventive consultations and a non-judicial format of canceling an illegal (from the voivode's point of view) decision of a local authority raises questions of their legal nature.

When it comes to Ukraine, the first attempts to change the model of state supervision over the rule of law in local self-government were made back in 2015, when amendments to the Constitution of Ukraine were proposed to introduce prefectures as new institutions. Since the draft law referred to the possibility of providing special conditions for the exercise of local self-government in certain areas of Luhansk and Donetsk oblasts, it provoked public disapproval, and the proposed changes were not adopted. The military actions that have been taking place in these regions since 2014 and the full-scale war with Russia that began in 2022 made it impossible to make any changes to the Constitution of Ukraine, and the issue of creating prefectures has been postponed. This happened because of legal provisions introduced under martial law, in particular, Article 19 (Guarantees of legality under martial law) of the Law of Ukraine on the Legal Regime of Martial Law (Verkhovna Rada of Ukraine, 2015) prohibits amendments to the Constitution of Ukraine during the relevant legal regime.

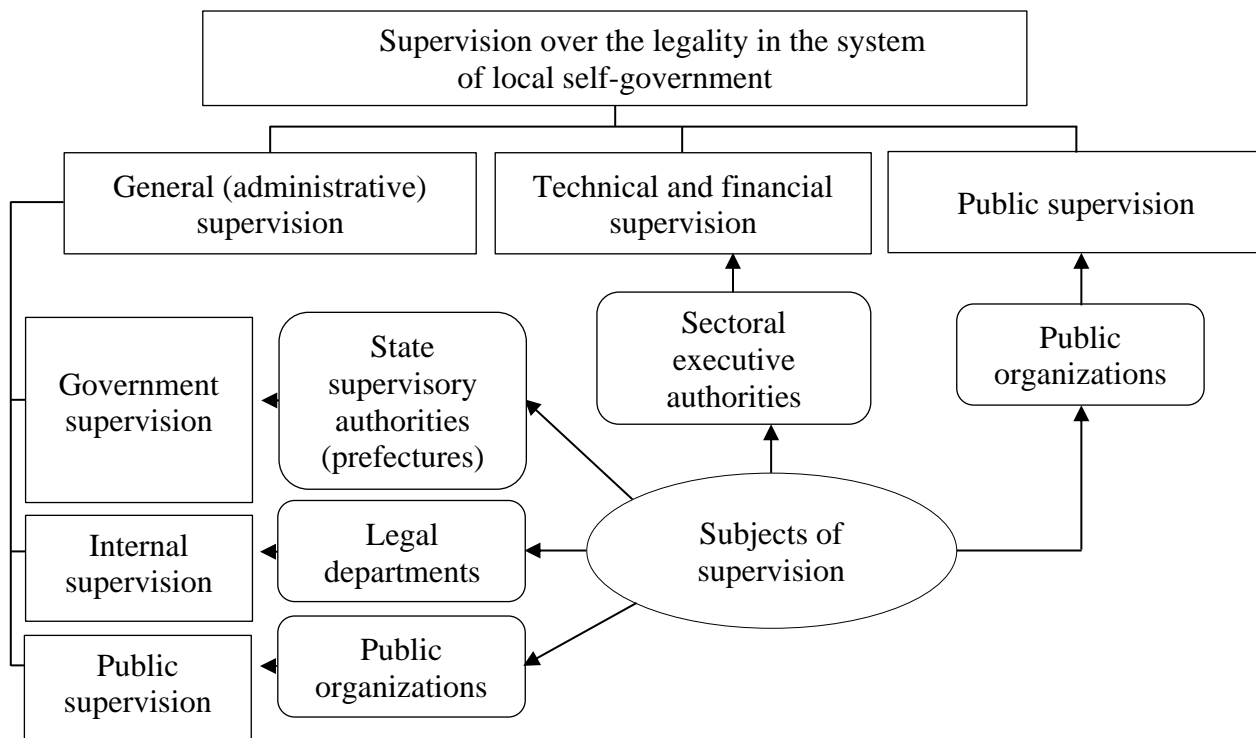
Due to the martial law regime caused by Russia's military aggression, regional governance showed a tendency to concentrate powers at the level of regional state administrations, which raises concerns about the state of local self-government, transparency of activities, and compliance with law by local authorities. In settlements that were occupied and later liberated, the state established administrations, which took over functions of local self-government and were granted the right to reduce transparency and increase the centralization of governance by the law (Verkhovna Rada of Ukraine, 2015). A study conducted by a group of Ukrainian scholars at de-occupied territorial communities also confirms this conclusion (Democracy Observatory, 2023). However, the experience of the post-war reconstruction of Bosnia and Herzegovina shows that in the context of reconstruction tasks, the predominant role is played by local governments. Amra Hadzimuhamedovic (Hadzimuhamedovic, 2009) notes that matters of spatial planning, return of refugees, creation of safe living conditions, including demining, restoration of education and health care systems, etc. were entrusted to municipal institutions, whose institutional capacity was strengthened with external support. However, this does not preclude the existence of central government supervision over the activities of local authorities.

The results of administrative reforms in the countries of the European Union also testify to the inexpediency of transferring the supervisory function to public organizations, whose representatives "generally do not have a sufficient amount of information compared to the relevant local authorities, which does not allow them to objectively assess the legality of decisions" (Stoika, Lozynska, 2022, p. 67-70). In the context of the balance between freedom of decision-making and state supervision over their legality, attention should be paid to the Recommendations of the Committee of Ministers of the Council of Europe 2019 on the structure of supervision, which distinguishes:

- administrative (general) supervision, stipulated by the European Charter of Local Self-Government;
- financial supervision, carried out by financial control bodies;
- public supervision, performed by the civil society.

In view of the fact that in Ukraine sectoral executive bodies exercise technical control over certain types of activities (industrial and residential construction, provision of educational and medical services, water and land use, etc.), it should be maintained while introducing control over expediency of decisions of technical nature. As well, it is fundamentally important to separate three components of the general supervision model: supervision by state supervisory bodies; internal supervision, and public supervision (Fig. 2).

T. Lukeria, analyzing the draft law on amendments to the Law of Ukraine "On local state administrations" and some other legislative acts of Ukraine on the reform of territorial organization of the executive power in Ukraine released in 2020 (Verkhovna Rada of Ukraine, 2021), supports the opinion



**Fig. 2. General model of supervision over the legality in the system of local self-government**

*Source: authors' development.*

on the need to enshrine the prefectural powers on local state administrations, which can use the next two tools to ensure the legality of decisions by local governments:

- demand to eliminate the violation of legality;
- recourse to the court with a lawsuit to recognize the act of a local government body as illegal

(Lukeria, 2023).

Supervision over the legality in the sphere of local self-government through the institution of prefectures is supported by 64.3% of the respondents; 66.7% believe that the activities of prefectures should be carried out within the framework of a separate body of state power – a prefecture; 33.3% of respondents who gave a positive answer to the question about the need to introduce prefecture for supervising the legality in the sphere of local self-government believe that tasks of state supervision can be handled by state district administrations. In general, the interviewed experts do not support the idea that a regional state administration should supervise the legality of decisions of district councils, so as a district state administration supervise the legality of decisions of village, settlement, and city councils, which is obviously caused by distrust of the regional bodies of state power.

The proposed model of supervision over the legality of local self-government’s decisions, including state administrative supervision, internal and public control, is seen as a mechanism that simultaneously ensures the application of preventive measures on offenses at the local level and the protection of territorial communities from the arbitrariness of control bodies. Certainly, the model requires meaningful and normative filling, because without clearly established rules, the supervision mechanism will not provide positive developments. It is necessary to ensure the apolitical nature of the institution of a prefecture, to determine their responsibility for interfering in the activities of local self-government, and to outline specific supervisory and control functions.

The war posed a serious challenge to local self-government in general and to human rights in this sphere. The formats of decision-making within territorial communities became different: in addition to the deputy corps, according to the provisions of martial law, the right for individual decision-making was given to village, town, and city mayors, as well as the heads of military administrations of settlements (MAS),

created in accordance with the presidential decrees in deoccupied communities and places, where local councils were unable to fulfill their powers. A study by the think tank "Democracy Observatory" shows that changing decision-making algorithms suspends the activities of parliamentary bodies and weakens the requirements of "budget transparency" (Democracy Observatory, 2023). But along with the weakening of the transparency in the budgetary process stipulated by the wartime regulations, many communities faced a significant decrease in the quality of information content at local council's websites, which we have repeatedly encountered in the course of our research. In territorial communities where local self-government is preserved, there are violations of legal requirements for land issues, permits, and reporting. Presently, there is an acute discourse about conditions, grounds, and mechanisms for restoration of local self-government in de-occupied territories, the order of formation of local self-government bodies, powers, etc., but it is important that these processes take place in compliance with the principle of the ubiquity of legality, i.e. the operation of laws throughout the state and their similar interpretation.

### Conclusions

The results of the study allow us to make several conclusions:

1. It is advisable to make a distinction between the concepts of "state control" and "state supervision" since control can be considered as a form of tracking compliance, which involves the intervention of a controlling authority in the activities of the object of control and its implementation within the system of subordination. Supervision, on the other hand, is a softer form, which has a preventive nature to ensure the rule of law in local self-government and is usually carried out by state bodies, to which the object of supervision is not subordinate.

2. The results of the survey, which was attended by representatives of local self-government bodies in Poltava, Sumy, and Kyiv regions (Ukraine), experts of associations of local self-government and other public organizations, showed that more than 40% of respondents have encountered violations of law by local self-government bodies in their practical activities and the same number of respondents expressed negative attitude towards the abolition of prosecutorial supervision, which further emphasizes the importance of formation of a general state supervision mechanism over the supervision of the rule of law by local self-government bodies.

3. The fundamental principle of state supervision over the legality of decision-making in the sphere of local self-government is formulated: the framework of state supervision over the activities of local self-government bodies limits the functionality of supervisory authorities to monitoring the compliance of LSG acts with legislation and their termination simultaneously applying to the court in case of detected legislative violations; at the same time, the balance between the freedom of decision-making by local councils and the pressure of the force of law should be observed. Other important principles are outlined, namely: non-interference with the activity; insubordination; priority; immediacy; counseling; competence; responsibility.

4. Most European countries, guided by the provision of the European Charter of Local Self-Government on the need to respect the rule of law, have created systems of administrative supervision over the legality of local self-government, with models that differ depending on the historical traditions, the development of civil society, culture of the population, corruption of power, the soundness of municipalities etc., and the level of rigidity of the model of state supervision and the number of institutions that provide it is determined by the duration of a tradition to grant financial autonomy to self-governments.

5. In the context of observing the balance between the freedom of decision-making and state supervision over the legality, we propose a general scheme for the model of supervision over the legality in the system of local government, which distinguishes: administrative (general) supervision; financial supervision carried out by financial control bodies; public supervision carried out by the civil society. It is also fundamentally important to divide the three components of the model of general supervision: supervision by state institutions; internal supervision, and public supervision.

6. Our research leads us to the conclusion that all European countries have institutions of administrative supervision over the legality of local self-government decisions. At the same time, there is a reason to believe that there is no single model of relevant administrative supervision. Ukraine remains the only country on the European continent that does not have a system of supervision over the legality of local self-government activities, however, Ukraine has an obligation before the European Union to ensure the institutionalization of administrative supervision over the legality of decision-making by local self-governments no later than the first quarter of 2025.

The proposed model of state supervision over the legality in local self-government, including state administrative supervision, internal and public control, is a mechanism that simultaneously provides the application of preventive measures for the prevention of offenses at the local level and protection of territorial communities from the arbitrariness of control bodies. At the same time, the proposed model requires both substantive content and normative support, determining the prospects for further scientific research on organizational and functional basis of the institution of a prefecture and the structure of the mechanism of state supervision over the legality in local self-government, the definition of specific supervisory and control functions, etc.

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# PROBLEMS OF NATIONAL PUBLIC AND PRIVATE LAW

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## DIMENSIONS OF LITIGATION IN OPEN DAMAGES LAWSUIT

Sadkhan Madhloom Bahedh Alabid<sup>1</sup>, Haider Ali Mizher<sup>2</sup>

<sup>1</sup> College of Law, University of Thi-Qar, Thi-Qar, Iraq

<sup>2</sup> College of Law, University of Thi-Qar, Thi-Qar, Iraq

**Corresponding author:** email: lawp1e27@utq.edu.iq

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### Abstract

In its simple sense, the center of the dispute is the cause of interest or harm upon which one relies in filing a class action lawsuit. Privacy is achieved in a class action lawsuit because the multiple parties do not rely on the personal right in their class action lawsuit, even if they rely on this (personal) right to join it or accept the request. This joining is after the announcement and the second concept is the transfer of the position of the dispute from one party to another such as filing a lawsuit by a company or a competent authority after agreeing to finance the litigation. The third meaning of the collective lawsuit is the adoption of the lawsuit as a model (the central lawsuit) in that the focus of the claim is on the unit of the defendant, an employer such as factories, laboratories, and companies. This lawsuit is called a class lawsuit or a collective lawsuit, and it prevails between the classes of workers or employees who are bound by an employment contract. Collective or administrative contracts within the scope of an institution or business entities affiliated with the same employer whether it is a natural individual or a legal entity such as a production company. We sought to collect data on collective damages in Iraq and achieve employer unity to enhance the statistical value of collective damages by systematically considering statistical data and the extent to which these damages are realized or worthy of litigation.

The research aims to achieve the following scientific objectives: 1) explain the specificity of the litigation center in a collective tort lawsuit, the importance of financing, and the possibility of litigation turning into a subject for trafficking or speculation; 2) determine the judicial process in the Anglo-Saxon countries and compare it with Iraqi law.

**Keywords:** class action, model suit, litigation financing, adversarial, interference, request to join, collective tort, relativity of damages, commercial litigation, speculation in litigation.

### Introduction

The litigation center combines the reason for the civil claim, whether interest or harm, for example, with the idea of verifying the link between that support and the parties to the civil litigation in the collective injury lawsuit.

The basic idea is that the focus of a person's lawsuit (the model lawsuit) was filed on the personal basis of its owner without being connected in principle to the potential parties who will join it to form what is called 'a class action lawsuit' based on that model lawsuit, which is the center and focus of the dispute in the collective harm lawsuit (Brian, 2014). The center of the dispute is important in the balance of the origin of the lawsuit and why the lawsuit is proven. The model is considered proven for all parties who accepted

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# **EVROPSKÝ POLITICKÝ A PRÁVNÍ DISKURZ**

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