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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**COMPARATIVE TABLE**

**RELATING TO THE DRAFT LAW OF UKRAINE  
ON AMENDING THE CONSTITUTION OF UKRAINE**

**REGARDING TERRITORIAL STRUCTURE  
AND LOCAL ADMINISTRATION**

**AS PROPOSED BY THE WORKING GROUP  
OF THE CONSTITUTIONAL COMMISSION  
OF UKRAINE ON 17 JUNE 2015**

**(UNOFFICIAL TRANSLATION)**

| Current Law   | Draft proposals of the workgroup  |
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| <b>Article 85.</b> The Verkhovna Rada of Ukraine shall encompass the following powers:  | <b>Article 85.</b> The Verkhovna Rada of Ukraine shall encompass the following powers:  |
| 29) establishment and liquidation of districts, establishment and alteration districts' and cities' boundaries, classification of localities as cities, naming and renaming localities and districts; | 29) establishment and liquidation of administrative territorial units, establishment and alteration of their names and boundaries; classification of settlements as cities; naming and renaming settlements;  |
| 30) calling of ordinary and extraordinary elections to local institutions of self-governance;   | 30) calling of ordinary and extraordinary elections to local institutions of self-governance, <b>except for cases provided in the Constitution of Ukraine</b>   |
| <b>Article 92.</b> Exceptionally by laws identifies   | <b>Article 92.</b> Exceptionally by laws identifies   |
| 19) legal regime of the martial law and emergency situation, zones of the emergency ecological situation  | 19) legal regime of the martial law and emergency situation, zones of the ecological emergency situation, the order of functioning of the state authorities and local self-governance bodies in the state of emergency or martial law, environmental emergency.   |
| <b>Article 106.</b> President of Ukraine shall:   | <b>Article 106.</b> President of Ukraine shall:   |
| 8) terminate the powers of the Verkhovna Rada of Ukraine in cases provided for in the Constitution  | 8 <sup>1</sup> ) <b>terminate the powers of the head of the community, composition of the community, district, regional council, in cases provided for in the Constitution of Ukraine;</b><br><br><i>21<sup>1</sup>) according to the law identifies the order of functioning of the state authorities and local self-governance bodies in the state of emergency or martial law, in zone of environmental emergency and at the territories where a threat to national security exists.</i> |
| <b>Article 118.</b> The executive power in regions and districts, in the cities of Kyiv and Sevastopol shall be executed by the local state administrations.  | <b>Article 118.</b> The executive power in regions and districts, in the cities of Kyiv and Sevastopol shall be executed by state prefects (state governors) and territorial units of central executive bodies.   |
| Particular aspects of exercising executive power in the cities of Kyiv and Sevastopol shall be set forth by special laws of Ukraine.  | Particular aspects of exercising executive power in Kyiv and Sevastopol shall be set forth by special laws.   |
| Composition of local state administration bodies shall be formed by the heads of the local state administrations.   | <b>To be excluded.</b>  |
| Heads of local state administrations shall be appointed to and dismissed from their office by the President of Ukraine on suggestion of the Cabinet of Ministers of Ukraine.                          | Prefects in regions and districts shall be appointed upon recommendation of the Cabinet of Ministers of Ukraine and shall be dismissed from the post by the President of Ukraine.<br><br>A prefect (state governor) is a state official.  |

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|   | A prefect (state governor) forms the composition of prefect's office, which establishes to ensure prefect's activities.   |
| When exercising their authorities, heads of local state administrations shall be accountable to the President of Ukraine and to the Cabinet of Ministers of Ukraine, and shall report to, and be supervised by the executive authorities of a higher level.                             | When exercising its authorities, the prefect (state governor) shall be responsible to the President of Ukraine and responsible and subordinated to the Cabinet of Ministers of Ukraine. |
| Decisions of the heads of local state administrations contradicting the Constitution and laws of Ukraine or other acts of legislation of Ukraine, may be revoked by the President of Ukraine or by the head of the local state administration of a higher level in accordance with law. | <b>To be excluded.</b>  |
| Local state administrations shall be responsible and subordinated to councils in part of powers delegated to them by respective district or regional councils.  | <b>To be excluded.</b>  |
| Local state administrations shall be responsible and subordinated to executive bodies of a higher level.  | <b>To be excluded.</b>  |
| A regional or district council may express non-confidence in a head of the respective local state administration, on the basis of which the President of Ukraine shall adopt a decision and provide a substantiated reply.  | <b>To be excluded.</b>  |
| If two-thirds of deputies in composition of the respective council express no confidence in a head of a district or regional state administration, the President of Ukraine shall adopt a decision on the resignation of the head of the local state administration                     | <b>To be excluded.</b>  |
| <b>Article 119.</b> Local state administrations in their respective territory shall ensure:   | <b>Article 119</b> Prefect in the respective territory shall ensure:  |
| 1) adherence to the Constitution and laws of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine and other executive power bodies;   | 1) adherence to the Constitution and laws of Ukraine by local self-governance bodies;   |
| 2) law abiding and legal order; observance of rights and freedoms of citizens;  | 2) coordinate activity of territorial units of central executive bodies and <b>supervise over their compliance with the Constitution and laws of Ukraine;</b>                           |
| 3) implementation of state and regional programmes for socio-economic and cultural development, programmes for environmental protection, and, in areas densely populated by native people and national minorities, programmes for their national and cultural development;              | <b>3) ensure implementation of state programmes;</b>  |

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| <p>5) reporting on execution of respective budgets and programmes;</p> <p>6) interaction with local institutions of self-governance;</p> <p>7) realisation of other powers vested by the State and delegated by the respective councils.</p>  | <p><b>4) coordinate and organise activity of</b> territorial units of central executive bodies and local self-government bodies, coordinate and organise their activity in the state of emergency or martial law, or environmental emergency;</p> <p>5) execute other powers vested by the Constitution and laws of Ukraine.</p>   |
|   | <p><b>On grounds of and according to the procedure prescribed by law, the prefect shall issue acts which shall be binding at the respective territory.</b></p> <p><b>Acts of prefects (state governors) contradicting the Constitution and laws of Ukraine or other acts of legislation of Ukraine, may be revoked by the President of Ukraine and the Cabinet of Ministers of Ukraine according to the legal procedure.</b></p>                                       |
| <p>Article 121. The Prosecutor's Office of Ukraine is a single system which shall:</p> <p>5) supervise over adherence to rights and freedoms of a person and citizen, compliance with respective laws by executive bodies, institutions of local selfgovernance, and their officials,</p>   | <p><b>To be excluded.</b></p>  |
| <p>Chapter IX. Territorial structure of Ukraine</p>   | <p>Chapter IX. <b>Administrative-territorial</b> structure of Ukraine</p>  |
| <p><b>Article 132.</b> The territorial structure of Ukraine shall be based on the principles of unity and integrity of the state territory, the combination of centralization and decentralisation in exercising the state power, and the balanced socio-economic development of regions while taking into consideration their historical, economic, ecological, geographic, and demographic characteristics as well as ethnic and cultural traditions.</p> | <p><b>Article 132. Administrative-territorial</b> structure of Ukraine shall be based on the principles of unity and integrity of the state territory, decentralization of power, ubiquity and ability of local self-government, sustainable development of <b>administrative territorial</b> units while taking into consideration their historical, economic, ecological, geographic, and demographic characteristics as well as ethnic and cultural traditions.</p> |
| <p><b>Article 133.</b> The system of the administrative and territorial structure of Ukraine shall include the Autonomous Republic of Crimea, regions, districts, cities, districts in cities, towns and villages.</p>  | <p><b>Article 133. The system of the administrative-territorial structure of Ukraine shall include administrative territorial units: communities, districts, regions.</b></p>  |

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| <p>Ukraine shall be composed of the Autonomous Republic of Crimea, Region of Vinnytsia, Region of Volyn, Region of Dnipropetrovsk, Region of Donetsk, Region of Zhytomyr, Region of Zakarpattia, Region of Zaporizhzhia, Region of Ivano-Frankivsk, Region of Kyiv, Region of Kirovohrad, Region of Luhansk, Region of Lviv, Region of Mykolaiv, Region of Odesa, Region of Poltava, Region of Rivne, Region of Sumy, Region of Ternopil, Region of Kharkiv, Region of Kherson, Region of Khmelnytskyi, Region of Cherkasy, Region of Chernivtsi and Region of Chernihiv, the City of Kyiv, and the City of Sevastopol.</p> | <p><b>To be excluded.</b></p> <p>One or several <b>settlements</b> (villages, urban villages, cities) with adjacent territories shall make a community.</p> <p>Several communities shall make a district.</p> <p>The Autonomous Republic of Crimea and the oblasts are regions of Ukraine.</p> <p>Specific features of administrative-territorial organisation of Kyiv and Sevastopol shall be set forth by specific laws.</p>   |
|   | <p>Procedure of creation, liquidation, change of boundaries, naming and renaming of <b>administrative territorial units as well as</b> the procedure for creation, naming and renaming and classifying <b>settlements</b> as a respective category of settlements shall be set forth by law.</p> <p>Change of boundaries, naming and renaming of communities and <b>settlements</b> shall be provided considering the opinion of people who live there due to the law established procedure.</p> |
| <p>The cities of Kyiv and Sevastopol shall have a special status set forth by the laws of Ukraine.</p>  | <p><b>To be excluded.</b></p>  |
| <p><b>Article 140.</b> Local self-governance shall be the right of a territorial community – residents of a village or a voluntary association of residents of several villages into one village community, residents of a town, and of a city – for the purposes of an independent decision-making on local issues in compliance with the Constitution and laws of Ukraine</p>   | <p><b>Article 140.</b> Local self-governance shall be executed by the territorial community both directly and through the local self-governance bodies by regulation activities and managing community affairs of local significance within Constitution and the laws of Ukraine.</p> <p>Territorial community shall be formed of people living in the settlements included to the community.</p>  |

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| <p>Local self-governing shall be exercised by a territorial community in compliance with a procedure established by law, both directly and through local institutions of self-governance: village, town and city councils, and their executive bodies.</p>   | <p><b>Local self-government bodies of community shall be a head of the community, community council as representative body and executive bodies of local self-government of the community.</b></p> <p><b>The executive bodies of the local-self-government of the community shall be accountable and under control of the community council.</b></p>  |
|  | <p><b>The head of the community shall chair meetings of the community council, coordinate and organise activity of executive bodies of local self-governance of the community.</b></p>  |
| <p>District and regional councils shall be the bodies of local self-governance representing common interests of territorial communities of villages, towns, and cities.</p>  | <p><b>District, regional councils and their executive committees shall be local self-governance bodies presenting and implementing common interests of territorial communities of the district, region.</b></p>   |
|  | <p><b>The status of heads of communities, deputies of community, district, region councils, the procedure for creation, re-organisation and liquidation of the executive local self-governance body of the community, executive committees of district, regional councils and scope of their authorities shall be governed by law.</b></p>  |
|  | <p><b>Territorial communities shall exercise local self-governance directly through local referenda and other forms established by the law.</b></p>   |
| <p>Organisation of administration of city districts shall fall within the competence of city councils.</p>   | <p><b>To be excluded.</b></p>   |
| <p>Village, town, and city councils may permit, at the initiative of residents, establishment of house, street, block, or other instruments of public self-organisation, and empower them with a part of own competency, finances, or property.</p>  | <p>Community council shall promote activities of self-organisation bodies of population established by the law and <b>charter of the community</b> and may provide them with finance and property for <b>this purpose</b>.</p>  |
| <p><b>Article 141.</b> Village, settlement, town, city, district, regional councils shall be composed of deputies elected by the residents of a village, settlement, town, city, district, region on the basis of the general, equal and direct electoral right by secret ballot. The term of a village, settlement, town, city, district, regional council which deputies are elected at the scheduled election shall be five years. Termination of powers of a village, settlement, town, city, district, regional</p> | <p><b>Article 141.</b> The right to vote at the elections of the community head, deputies of the community council, district council, regional council shall be granted to residents of the corresponding community (communities) being citizens of Ukraine and not less than eighteen years old as of the day of elections and who are not recognized by the court as legally incapable.</p> |

council shall be a consequence of termination of powers of deputies composing a respective council. On the basis of the general, equal and direct electoral right territorial communities shall elect by secret ballot, respectively, a village, settlement, town, city headman who is in charge of a council executive body and presides at its meetings. The term of office of a village, settlement, town, city headman, elected at scheduled elections, shall be five years.

The regular election of the village, settlement, city, district and oblast councils, village, settlement, city heads are held on the last Sunday of October of the fifth year of authority of the respective Council or the respective Head, elected at regular election.

Head of community, deputies of the community council, district council, regional council shall be elected on the basis of the general, equal and direct electoral right by secret ballot.

A citizen of Ukraine who is not less than eighteen years old as of the day of elections, is not recognized by the court as legally incapable and resides on the territory of the respective community, district, region may be elected the head of community, deputy of the community council, district council, regional council. A citizen who is serving a sentence for commitment of a crime or has a criminal record for commitment of an intentional crime shall not be elected. The procedure for election of deputies of district and regional councils shall ensure securing representation of communities **within** respective district or region and is envisaged by law.

Members of community councils, the head of community, district and region councils are elected for a term of four years.

Reasons and procedures for pre-term revocation of mandate of the head of community, member of a council or composition of a given council are established by the constitution and laws of Ukraine.

Elections of members of all community, district, regional councils, heads of communities take place in the last week of October of the fourth year of their mandate.

Pre-term elections of community, district, regional councils, heads of communities take place no later than 90 days after the pre-term termination of powers of a given head of community or composition of a council.

**The day of pre-term elections is established according to the law.**

**In case of appointment of a temporary state representative pre-term elections in a given administrative-territorial unit are**

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| <p>The status of heads, deputies and executive bodies of a council and their authority, the procedure for their establishment, reorganisation and liquidation, are determined by law.</p> <p>The chairperson of a district council and the chairperson of an oblast council are elected by the respective council and lead the executive staff of the council.</p>  | <p><b>called in the last week of the state representative mandate.</b></p> <p><b>District council, regional council elect amongst their members a head of a district or a regional council.</b></p> <p><b>District council, regional council appoints and dismiss the head of the executive body of the council and appoints its other members upon his proposals.</b></p> <p>The head of community, members of community, district, regional councils cannot have other representative mandates. Other issues related to incompatibility of the mandate of community, district, regional councils are established by law.</p> |
| <p><b>Article 142.</b> The material and financial basis for the local self-government shall be movable and immovable property, revenues of local budgets, other funds, land, natural resources which are held by territorial communities of villages, settlements, towns, cities, districts in towns and cities, as well as items of their joint ownership which are managed by district and regional councils.</p> | <p><b>Article 142.</b> The material and financial basis for the local self-government shall be:</p> <ol style="list-style-type: none"> <li>1) <b>land</b>, movable and immovable property, natural resources, other objects which are owned by the territorial union of the community;</li> <li>2) local taxes and fees, part of national taxes and other revenues of local budgets.</li> </ol> <p>Objects of joint ownership of territorial unions of communities shall be managed by the district or regional council and maintained by means of funds of district or regional budget respectively.</p>                      |
|   | <p>The state shall ensure the adequacy of financial resources and the scope of powers of local self-government bodies as stipulated by the Constitution and laws of Ukraine. Change in competence of the local self-government body shall be executed together with simultaneous corresponding changes in distribution of financial resources.</p> <p><b>The State shall compensate the expenses of the self-government bodies incurred as a result of the decisions of public authorities.</b></p>  |



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| <p>Territorial communities of villages, settlements, towns and cities can consolidate on a contractual basis items of communal ownership, as well as budgetary funds, for the implementation of joint projects or for joint funding (holding) of public utility enterprises, organizations and institutions, and, for this purpose, they can establish appropriate bodies and services.</p>  | <p>Territorial communities can amalgamate on a contractual basis objects of communal ownership, as well as budgetary funds, for the implementation of joint projects or for joint funding (maintenance) of public utility enterprises, organizations and institutions, and, for this purpose, they can establish appropriate bodies and services.</p>   |
| <p><b>Article 143.</b> Territorial communities of the village, settlement, town, city shall, directly or through local self-governments established by them, manage the property being in communal ownership; adopt programmes on social and economic, and cultural development, as well as control their implementation; approve budgets of the respective administrative-territorial units and control their implementation; determine local taxes and duties in accordance with law; provide for holding local referendums and implementation of their results; establish, reorganize and liquidate public utility enterprises, organizations and institutions, as well as exercise control over their activity; resolve other issues of local importance assigned by law to the scope of their competence.</p> | <p><b>Article 143.</b> Territorial communities, directly or through local self-governments bodies of the community, in accordance with law shall:</p> <ol style="list-style-type: none"> <li>1) manage the property being in communal ownership;</li> <li>2) approve budgets of the respective communities and control their implementation;</li> <li>3) <b>approve programs of social and economic and cultural development and control their implementation;</b></li> <li>4) determine local taxes and duties;</li> <li>5) provide for implementation of local referendums' results;</li> <li>6) establish, reorganize and liquidate public utility enterprises, organizations and institutions, as well as exercise control over their activity;</li> <li>7) resolve other issues of local importance assigned by law to the scope of their competence <b>according to the principle of subsidiarity.</b></li> </ol> |
| <p>Regional and district councils shall approve programs on social and economic, and cultural development of the respective regions and districts and control their implementation; approve district and regional budgets that are set up by means of funds from the state budget for the purpose of their appropriate distribution among territorial communities or for the implementation of joint projects and by means of funds raised on a contractual basis from local budgets for the implementation of joint social and economic, and cultural programmes and control their implementation; resolve other issues assigned by law to the scope of their competence.</p>   | <p>Regional and district councils shall:</p> <ol style="list-style-type: none"> <li>1) approve regional and district budgets for the implementation of joint projects, including by means of funds raised on a contractual basis from local budgets, and control their implementation;</li> <li>2) resolve other issues assigned by law to the scope of their competence.</li> </ol> <p>Regional council shall approve regional program on social and economic, and cultural development of the respective regions and control its implementation.</p>  |
|  | <p>Division of competences between the local self-governance bodies, to be created in community, district and region, shall be determined by the law based on principle of subsidiarity.</p>  |

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| <p>In accordance with law, local self-governments may be invested with powers of executive authorities. The state shall finance exercise of these powers in full at the expense of funds from the Ukraine's state budget or by attributing certain country-wide taxes to the local budget in accordance with law, transfer to local self-governments the relevant items of state property.</p> | <p>In accordance with law, certain powers of executive authorities can be delegated to executive bodies of local self-governments. The state shall finance exercise of these powers in full at the expense of funds from the Ukraine's state budget, transfer to local self-government bodies the relevant objects of state property. Such powers may be revoked on the grounds and in accordance with the procedure prescribed by law.</p>   |
| <p>Local self-governments shall be subordinated to the relevant executive authorities regarding the issues of their exercise of powers of executive authorities.</p>   | <p>As to the questions of exercising powers of the executive bodies, <b>executive bodies of local self-governments of the community, executive committees of district council, regional council</b> self-government bodies shall be subordinated to the respective executive bodies.</p>  |
| <p><b>Article 144.</b> Local self-governments shall, within the powers defined by law, adopt decisions that are binding on the respective territory.</p>   | <p><b>Article 144.</b> Territorial communities, local self-government bodies shall, in accordance with the law, <b>adopt</b> acts that are binding on the respective territory.</p>   |
| <p>Decisions adopted by local self-governments shall be terminated in the manner prescribed by law, simultaneously bringing the matter before the court, for the reasons of their inconsistency with the Constitution or laws of Ukraine.</p>  | <p>Acts of local self-governments for reasons of noncompliance of the Constitution or laws of Ukraine in a manner and within the terms prescribed by law, shall be terminated by the perfect simultaneously bringing the matter before the court.</p>   |
|  | <p><b>If head of community, community council, district and regional councils go beyond the scope of powers envisaged by the Constitution and the laws of Ukraine applicable to the local self-government bodies, and poses a threat to the sovereignty of the state, territorial integrity or other threat to the national security, the President of Ukraine, pursuant to the law shall terminate early the powers of self-government bodies and shall appoint an interim authorized government official for the period not exceeding one year, whom self - government bodies shall be subordinated to.</b></p> <p><b>The self-government body the powers of which have been terminated or at least 45 people's deputies of Ukraine are entitled to resort to the Constitutional Court of Ukraine on the issue of constitutionality of such decision taken by the President of Ukraine.</b></p> |

| <b>Section XV TRANSITIONAL PROVISIONS</b> | <b>Section XV TRANSITIONAL PROVISIONS</b>  |
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|   | <b>Transitional Provisions to the Draft Law of Ukraine on amending the Constitution of Ukraine</b>   |
|   | 1. This law becomes effective from the day following the day of its publication, except for Clauses 118, 119, Part 5 of Article 140, Parts 11 and 12 of Article 141, Parts 5 and 6 of Article 143 of the Constitution of Ukraine in the version of this Law, which become effective from date of ..... |