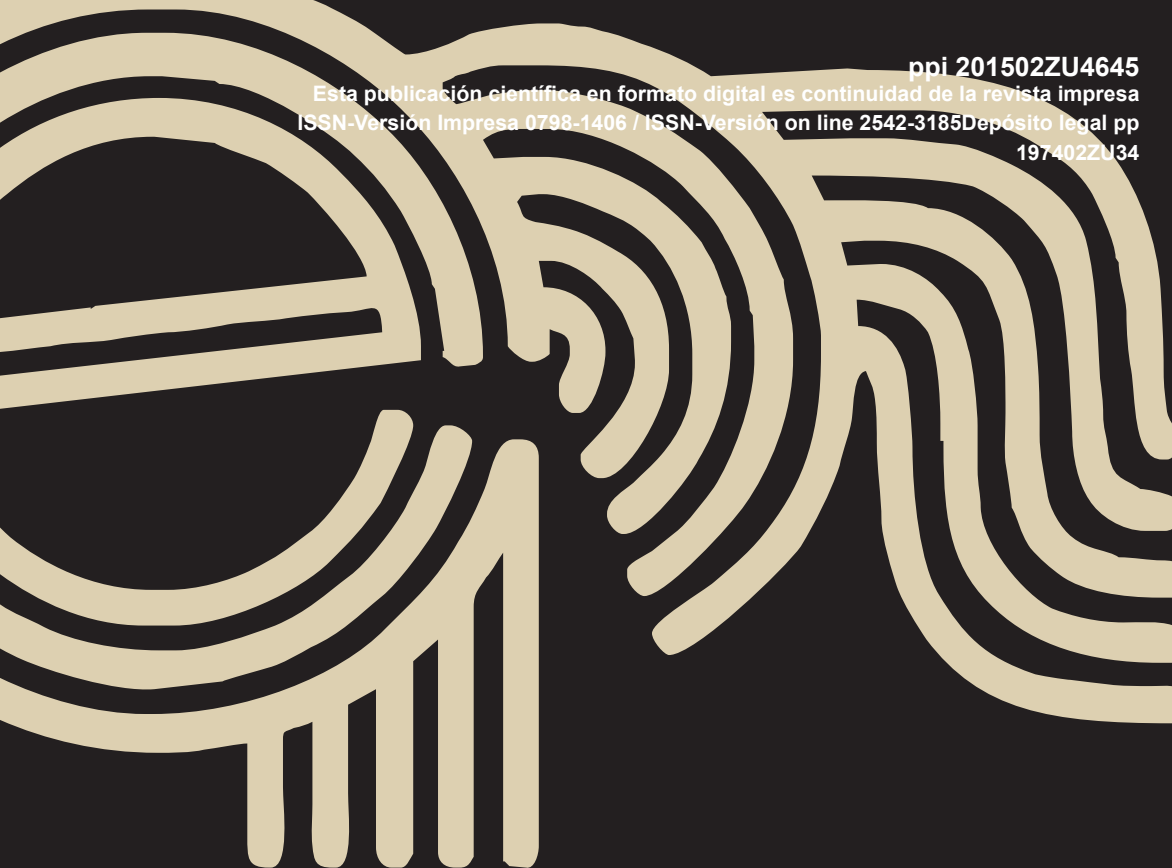


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# Legislative Support Standards in the European Union in the Field of Building a System of Local Self-Government

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## Abstract

Through a documentary research design that combined induction and deduction, comparison and systematization, synthesis and analysis with abstract-logical thinking. The main objective of the study was to identify the key aspects of the legislative support rules in the countries of the European Union, in the field of building a system of local self-government. The European Union during the history of its existence has developed a set of rules on which the systems of local self-government of member states and applicants for this status are built. The complexity and importance of legislative regulation of the functioning of this system is evidenced by the fact that the legislation and principles of international law used by the union in the field of local self-government are among the “youngest”. It is concluded that this is due to the role of local self-government in the development of a democratic political system, as well as the search for an optimal balance between centralization and decentralization. As a result of the study, current trends and prerequisites for legislative support standards in European Union countries were investigated.

**Keywords:** European Union; legislative support; democratic political system; local self-government; local authorities.

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## Normas de apoyo legislativo en la Unión Europea en el ámbito de la construcción de un sistema de autogobierno local

### Resumen

Mediante un diseño de investigación documental que conjugo la inducción y deducción, comparación y sistematización; síntesis y análisis con el pensamiento abstracto-lógico. El objetivo principal del estudio fue identificar los aspectos clave de las normas de apoyo legislativo en los países de la Unión Europea, en el campo de la construcción de un sistema de autogobierno local. La Unión Europea durante la historia de su existencia ha desarrollado un conjunto de normas sobre las cuales se construyen los sistemas de autogobierno local de los Estados miembros y solicitantes de este estatus. La complejidad y la importancia de la regulación legislativa del funcionamiento de este sistema se evidencia en el hecho de que la legislación y los principios del derecho internacional utilizados por la unión en el campo de la autonomía local se encuentran entre los “más jóvenes”. Se concluye que esto se debe al papel que juega el autogobierno local en el desarrollo de un sistema político democrático, así como a la búsqueda de un equilibrio óptimo entre centralización y descentralización. Como resultado del estudio, se investigaron las tendencias actuales y los requisitos previos para los estándares de apoyo legislativo en los países de la Unión Europea.

**Palabras clave:** Unión Europea; apoyo legislativo; sistema político democrático; autogobierno local; autoridades locales

### Introduction

Local self-government as self-organization, regulation, and management of territorial communities, independently solving important issues of local life, is one of the most striking phenomena of European civilization.

Among a large number of common assets of mankind, among which respect for the choice of peoples of state forms of their existence, the desire for peace between states, and respect for human rights, local self-government occupies a special place. Local self-government, firstly, is the original and natural form of existence of human communities; secondly, it made the main contribution to the formation of statehood, since it historically preceded the development of a state-organized society, which borrowed and raised many organizational and organizational-legal forms of interaction between government and society to the state level; thirdly, it plays an important role in the formation and functioning of modern democratic statehood based on the principles of democracy and the

priority of human rights over the rights of the state; fourthly, today it is included in the list of issues that are the subject of not only national but also international legal regulation. Proceeding from this, the phenomenology of local self-government is based on the synergy of national and international legal order.

All these features also apply to the institution of local self-government functioning in the territory of the European Union. Let us consider in more detail these features of local self-government in the context of the national and international components.

Regarding the national component of local self-government, it should be noted that in the modern world it acts as a complex and multifaceted social phenomenon and legal institution, enshrined in the constitutions of the vast majority of member states of the international community, as well as member states of the European Union. However, despite the constitutional legalization of local self-government in these sovereign entities, there is an ambivalent approach to it on the part of the state, manifested in the presence of a constant dichotomy of “centralization - decentralization” regarding the competent powers of the institution of local self-government, its subjects and bodies.

## **1. Materials and methods**

For a more detailed study of the development of the legislative support standards in the countries of the European Union in the field of building a system of local self-government, the following methods were used: induction and deduction, comparison and systematization; synthesis and analysis; abstract-logical - for theoretical generalizations and conclusions of the study.

To more accurately reflect the main aspects of legislative regulation and the development of local self-government in the European Union, we used the IDEFo functional modeling method.

## **2. Literature review**

According to modern scientific research, the source of European legal standards of local self-government are international treaties concluded under the auspices of the Council of Europe. The solemn ceremony of Ukraine's accession to the Council of Europe took place on November 9, 1995, in Strasbourg. The Council of Europe has always recognized the importance that democracy plays at the local and regional levels.

Protection and strengthening of local and regional authorities, and local self-government as a whole has gradually become one of the key activities of this organization. Back in 1957, the Permanent Conference of Local and Regional Authorities of Europe was founded in the structure of the Council of Europe for local authorities (Asheim *et al.*, 2011; Green *et al.*, 2013; Durmuş, 2020).

The Council of Europe is working to ensure that local authorities are properly represented. On January 14, 1994, by the decision of the Committee of Ministers of the Council of Europe, the Congress of Local and Regional Authorities of Europe was established, which replaced the Permanent Conference. In 2003, the name “Congress of Local and Regional Authorities of Europe” was changed to “Congress of Local and Regional Authorities of the Council of Europe”.

According to scientific sources, one of the sources of European law is the European Framework Convention on Transfrontier Cooperation between Territorial Communities or Authorities of May 21, 1980 (Kemeny and Storper, 2014; Droniv, 2018).

This convention governs any joint action aimed at strengthening and deepening good neighborly relations between communities, authorities, or bodies of neighboring states exercising local and regional functions, and are recognized as such in accordance with the internal legislation of each of the states.

The Convention recognizes the right of local and regional authorities to cooperate beyond national borders within the limits of their powers established by domestic law on the creation of common public services, the construction of common facilities, or environmental protection with the same-name subjects of foreign countries that are adjacent. It creates a regulatory framework for the emergence of the so-called European regions and a clear teleological direction - the establishment of interaction between regions of different countries in order not only to improve the welfare of the population but also to improve the system of regional governance and self-government (Kryshchanovych *et al.*, 2021).

Two additional protocols were signed by the member states of the Council of Europe in Strasbourg to the Framework Convention of 1980. The first of these is the Additional Protocol to the European Framework Convention on Transfrontier Cooperation between Territorial Communities or Authorities of November 9, 1995 (Sylkin *et al.*, 2021).

Analysis of scientific publications (Adusei-Asante, 2012) on foreign experience of decentralization shows that for countries in transition, the most effective way to profoundly change social relations and improve the living standards of the population, increase the potential of local development is expanded decentralization. The experience of developed European countries is a confirmation.

### 3. Research Results and Discussions

Analyzing the experience of international practice of organizing local self-government, we see completely different types, models and systems of local self-government. Most of the politically and socio-economically stable European states have gone through generally similar stages of their development and, in this regard, have many common features.

In particular, the general nature of the powers of local self-government and their officials, a similar mechanism of interaction between state and municipal bodies in the process of local self-government. Common and fundamental for all is that the state controls the exercise of powers by local self-government bodies (Kryshtanovych *et al.*, 2020).

Other charters and conventions of the Council of Europe are of particular interest in the issue of Local Self-Government (Table 1).

**Table 1: Charters and conventions of the Council of Europe which are of particular interest in the issue of Local Self-Government.**

№	Charters and conventions
1	The European Charter for Regional or Minority Languages, which was signed in 1992, but entered into force only in 2006
2	European Local Charter
3	The European Charter for the participation of young people in public life at the local and regional level 2003, although not have the status of a convention, but the main provisions of which provide an increase in the ability of young people to integrate into the local community and to realize their abilities at the national level

Source: authors.

But, of course, the main attention should be paid to the European Charter of Local Self-Government of October 15, 1985, as one of the main sources that should be used for the development of capable local self-government in Europe. This document was adopted by the Council of Europe on October 15, 1985, as a result of many years of work on various European structures and is evidence of the importance of local self-government as a necessary attribute of a democratic society. The Charter has been in development for 17 years (Gawłowski *et al.*,2020).

An analysis of the principles enshrined in the Charter of Local Self-Government shows that modern Europe sees the most important

element of democracy in local self-government. First of all, we are talking about reducing the role of the state to the necessary minimum, limiting bureaucratic pressure from the bureaucracy, which contributes to the involvement of people in the values of democracy. The experience of self-government, and most importantly, the skills developed by it, instill in the population a sense of civic responsibility for making decisions on local development (Hidalgo, 2021).

The Charter of Local Self-Government consists of a preamble, three parts, and 18 articles. Consequently, a small Charter of Local Self-Government defines a set of basic principles, the presence of which in the legislation and their observance in practice in a given country allows us to conclude the presence, absence, or degree of development of local self-government.

The very concept of local self-government is spelled out quite clearly in the Charter because we are talking about the widespread involvement of citizens in the management of their territories and the independent resolution of issues of local importance in the interests of the territorial community. Local self-government thus becomes a special form of “public power”, whose activities are regulated exclusively by law (state power is removed directly from public power, which is formed by the territorial community) (Sylkin *et al.*, 2021).

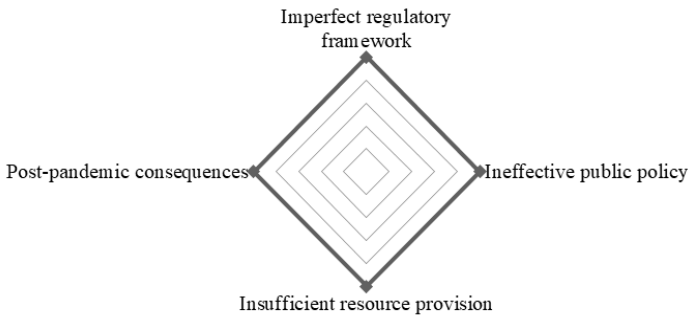
Also, thanks to the introduction of the principles of local self-government into the real social practices of individual countries, mechanisms for equalizing the development of all territories of the state are used. The European Charter requires the protection of financially weak «local authorities», and the introduction of procedures to eliminate financial imbalances in order to overcome the consequences of an unequal distribution of potential sources of funding. Local self-government is thus guaranteed by the Constitution because the conformity of the volume of its financial resources and functions is guaranteed by law.

Article 4 of the European Charter fixes the requirement of a separate law or the Constitution of the country regarding the real implementation, completeness, and exclusivity of the powers of local self-government, which cannot be influenced by government bodies. The powers vested in local self-government bodies, as a rule, must be complete and exclusive. They cannot be canceled or limited by another, central or regional authority unless this is provided for by law. According to article 10 of this document, local governments are granted the right to cooperate with local governments of other states (Kryshtanovych *et al.*, 2021).

Especially that the obligations assumed by the participants of the convention are clearly defined. But at the same time, it is possible to adapt the Charter to the legal and organizational-administrative features of the member countries of the Council of Europe. This is achieved by the

possibility for the parties to the Charter to exclude certain provisions from those that may be considered binding on them, but such exceptions cannot affect the basic principles of the Charter.

Thus, a certain compromise is assumed between the recognition of the fact that local self-government affects the system-structural organization of the state as a whole, which is quite specific for each individual country, and the need to ensure a minimum set of principles that must be respected and observed in any democratic state.



**Fig.1. The main obstacles and difficulties that negatively affect building a system of local self-government. Source: authors.**

The presence of local governments' own sources of financial income is usually enshrined in the constitutions and current legislation of foreign countries, and federative states - in the constitutions and legislation of the subjects of the federation. For example, in Italy, the constitution provides for financial autonomy for the regions «in the forms and within the limits established by the laws of the Republic, which bring it into line with the finances of the state, provinces, and communities.» The revenues of the regions are the share of state taxes (depending on the needs of the regions); special funds allocated by the state to perform certain tasks and local taxes (Kryshtanovych *et al.*, 2022).

There are 13 thousand of local budgets in Great Britain. Top-level budgets of administrative units are not consolidated against lower-level budgets. In Germany, the consolidated state budget is not approved but published as a statistical indicator. In Italy, local budgets are not included in the state budget. Regions, provinces, and communes have independent budgets. In addition, local governments of European states conduct specific economic activities, operate the relevant companies and services, and manage their property.



This corresponds to the corporate status of municipal bodies, the institution of municipal property, and the contractual form of economic relations of the municipality with private entrepreneurs. Municipalities are endowed with the status of corporations of public law, and their property is treated as public property.

Since the subject of municipal property rights is not the state as a whole, but individual municipal bodies, this property is singled out as an independent type of public property along with state property. Acting as a public law corporation, municipalities have the right to acquire property, own, use, and dispose of it, act in civil law relations, and also bear civil liability.

Taking into account the experience of European countries in reforming individual institutions and local self-government as a whole, it is also necessary to take into account the direction of pan-European trends and the dynamics of the evolution of local self-government. Such trends indicate that there is a gradual decrease in quantitative and qualitative differences in the powers of local governments.

The decisive influence, in this case, is exerted by the universalization of the principles of self-government on the basis of international legal acts, in particular the European Charter of Local Self-Government, which has developed a common policy for Europe in the field of local government. The next dynamic feature of the evolution of self-government is a significant expansion of the powers of its bodies. This can be explained by the active development of democracy, the complication of life on the ground, and the improvement of the material and financial capabilities of local power structures.

The experience of public administration reforms in European countries has shown that the boundaries of decentralization are determined by the specifics of relations between the center and individual territories. The political decentralization and commercialization of public services in the UK, the increasing role of communes and the gradual transition to market relations in management in Germany, administrative reforms, and the activation of local communities in France - all these measures reflect one or another type of decentralization, which other European countries are guided by.

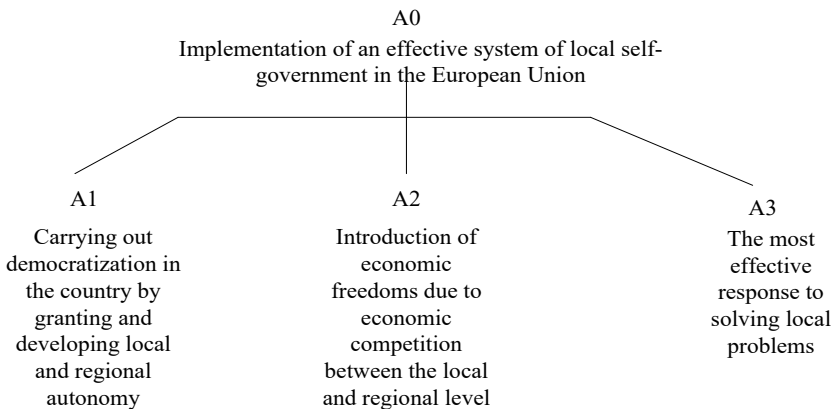
Another trend is to strengthen the role of integration of local self-government into state mechanisms of political governance. This trend is manifested through the coordination of the legislation of different countries on local self-government, including electoral legislation, through increased influence on the functioning of national systems of local government, as well as increased control by state authorities in the field of local government.

But no less important sign of the dynamics of the development of self-government is the rethinking of the traditional view of municipalities as the main providers of local goods and services. The provision of services to the population is gradually ceasing to be the main function of local authorities (the scientific literature speaks of the “pluralization” of this process). At the forefront are such tasks as management, supervision, inspection, and coordination.

The role of municipal authorities is increasingly seen as the so-called «providing» authorities, solving the following fundamental tasks: identifying the urgent needs of the population; setting specific priorities; defining the standards of services provided, and finding the best ways to ensure these standards; cooperation with central and regional authorities in solving problems of local importance; inspection and coordination of the activities of various organizations operating at the local level, cooperation with them (mainly on a contract basis); lobbying for local communities; implementation of feedback between service consumers and their direct providers using democratic mechanisms.

For a better understanding of the process of introducing and reforming local self-government, we used the methodology of functional modeling IDEFO.

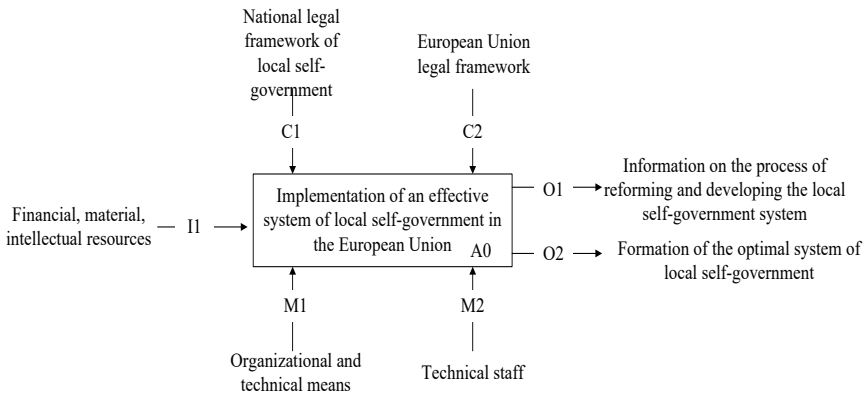
Yes, the first step of our model will be the formation of a primary tree of goals, where the ultimate goal will be marked with the symbol A0 (Implementation of an effective system of local self-government in the European Union), and the main stages of its achievement will be marked with the symbols A1-A3 (Fig. 2).



**Fig.2. The tree of goals of the process of achieving the final goal A0 - Implementation of an effective system of local self-government in the European Union. Source: authors.**

So, as we see from Figure 2, as a result of the analysis of scientific literature, we identified three main elements for the successful implementation of the local self-government system, which was formed on the basis of the experience of these processes in the European Union (Kryshtanovych *et al.*, 2022).

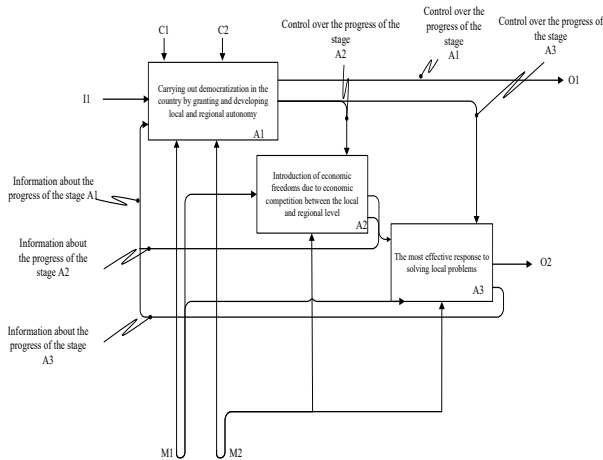
The next step in the implementation of the functional model IDEFo we have chosen will be to determine the main components of the successful implementation of the main goal Ao. For a better understanding, these components were divided into four groups: control elements, mechanisms, input and output elements. To do this, we have formed a context map of the process of ensuring the goal Ao (Fig.3.).



**Fig.3. Context map of the process of ensuring the goal Ao - Implementation of an effective system of local self-government in the European Union. Source: authors.**

As we can see from Figure 3, for the effective formation of legislative support for local self-government, there is a need for both input and intermediate resources that will provide this process throughout the entire period of achieving the Ao goal.

The final step of our functional modeling model IDEFo will be the formation of Decomposition of achieving the final goal Ao - Implementation of an effective system of local self-government in the European Union (Fig.4).



**Fig.4. Decomposition of achieving the final goal A0 - Implementation of an effective system of local self-government in the European Union. Source: authors.**

The experience of the countries of the European Union testifies to the plurality of approaches to the organization of self-government. The most common of these are the introduction of models of local autonomy and decentralization. It was decentralization that became the main slogan of the reform of local self-government in Europe. The difference in the conceptual forms of decentralization is explained by the peculiarities of historical development, geographical location, national and religious characteristics, and the development of culture.

## Conclusions

Thus, it can be noted that the legislation of the EU itself does not have specific requirements for building a system of local self-government. The founding documents of the EU guarantee support to local authorities when their activities are related to the functioning of the EU. At the same time, the documents of the Council of Europe contain the most complete system of standards for the activities of local governments, the purpose of which is to protect human rights, traditional European values of democracy, and the rule of law. As a rule, all conventions of the Council of Europe are ratified by European countries, and all EU members and are considered the most advanced in their field.

Today, the leading document, which is the standard for democratic local government in Europe, is the European Charter of Local Self-Government (ECHLA). The process of its creation began at the initiative of the Council of Europe as early as 1968; this document was opened for signing by the member states of the Council of Europe on October 15, 1985, and entered into force on September 1, 1988.

According to the results of the study, scientific novelty involves the use of a methodological approach with modeling elements to achieve the goals. The study has a number of limitations, primarily related to modeling limitations. Modeling is more theoretical and methodological. Further research should be devoted to expanding the modeling and practical application of the proposed decomposition.

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