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IMPLEMENTATION OF CONTRACTUAL RELATIONS BETWEEN PUBLIC AUTHORITIES IN THE CONTEXT OF REGIONAL DEVELOPMENT

It was proved in the article that it is reasonable to base the relations between the central and territorial public authorities on a contractual basis, at that two types of contracts are distinguished: "transactional" contracts and "relational" contracts. For "transactional" contracts, the state clearly and completely determines the rights and obligations of both parties in advance. On the contrary, "relational" contracts simply develop a framework of interaction process. "Transactional" contracts are very secure, but can be difficult to design, because every unforeseen future must be decided in advance. "Relational" contracts are less secure because mutual obligations are incomplete and can be interpreted differently post factum. However, they are more flexible and therefore better suited to complex and evolving relationships. In addition, they allow for the accumulation of knowledge and experience, because their flexibility allows for the experimentation and implementation of non-standard solutions.

Keywords: *public administration, cooperation, public authorities, regional development, contractual relations.*

Formulation of the problem. In recent years, Ukraine has undergone significant changes in government decision-making and public policy formation related to decentralization processes. Decentralization has, above all, a financial dimension. The growth of local authorities has led to increased expenditures at the local level, but decentralization requires the development of specific mechanisms to regulate the increase in transfers from the central to the subnational level.

However, decentralization is inherent not only in today's Ukraine, it has become a common global trend over the past 20 years. The need to manage financial transfers and the increasing powers of the subnational level of public administration have led to the emergence of new mechanisms and approaches for managing interactions between different levels of government. One of such approaches, which, in our opinion, should be introduced also in Ukraine, is the "contract approach". This approach is all the more useful, as international experience shows that the conclusion of contracts between the levels of power is connected not only with decentralization. When decentralization has already been achieved, contracting is useful for managing cooperation, especially in cases of innovation policy and when the policy has to deal with the interdependence of different actors.

Analysis of recent studies and publications. The contractual relations between public authorities are considered by such foreign scientists as G. Bouckaert, G. Cameron, D. Bouckaert, Counsell, M. Danson, H. Halkier, G. Haughton, P. Kenis, I. MacNeil, K. Morgan, K. Provan, Y. Rocaboy, M. Storper, etc., whose works were used to prepare this article.

Article purpose. Identify the peculiarities of implementing contractual relations between public authorities to ensure regional development.

Main material description. The contractual approach in relations between the levels of public administration has two theoretical grounds. First, the new institutional economics (agency theory, economics of transactional costs) provides tools for the analysis of contract practice between the parties. Second, the new

political economy (which includes such theories social contracts, analysis of public choice, constitutional political economy, etc.) provides mechanisms for understanding the context in which these contracts are executed. It is necessary to underline that the term "contract" here is used in the economic sense: *a contract means any agreement between two parties (decision makers) aimed at defining mutual obligations to manage their relations*. This economic concept of a contract is broader than its legal analogue.

Typically, the contract provides for the definition of mutual rights and obligations, audit and reporting mechanisms (usually related to bonuses and fines), and conflict resolution mechanisms. Therefore, a "contract" between different levels of government may be partly "constitutional" and partly "contractual" from a legal point of view, since in practice the mechanisms governing the relationship between the different levels of government consist of a combination of formal contracts, constitutional agreements, laws and administrative rules.

In considering the contractual relations between different levels of power, we also rely on the provisions proposed by the American law theorist I. MacNeil [4], according to which there is a continuum of contractual practice between two opposite coordination approaches: "transactional" contracts and "relational" contracts. For "transactional" contracts, the State clearly and fully defines the rights and obligations of both parties. On the contrary, "relational" contracts simply develop the framework of the post factum interaction process. "Transactional" contracts are more secure, but can it is more difficult to formulate them, because it is necessary in some sense to forecast a future, partly decisions, which will be made by both parties. "Relational" contracts are less secure as parties' obligations can be interpreted differently post factum. However, they are more flexible, that's why they are more suitable in the case of complex and evolving relationships [3]. In addition, they allow for the accumulation of knowledge and experience because their flexibility allows for the experimentation and implementation of non-standard solutions that are being studied.

We then describe the various forms of contracts that can be implemented between central public authorities (CPA) and territorial public authorities (TPA). The existence of two opposite approaches, transactional and relational, lead to the application of contract mechanisms based on different points of view on the main issues to be solved. However, in practice, in most cases, a mixed approach is used, which is a combination of these two [3], since the development of an effective contract between the levels of power should be based on a deep understanding of the situation and objectives of the contract (for example, to control the other level or to extend its powers).

Simply put, transactional contracts are market similar. These contracts are used to solve problems that arise when informal rules (beliefs, moral norms, etc.) that exist in society are not sufficient to coordinate action plans of several different actors. That is why actors use transactional contracts as coordination mechanisms, which rely on and complement the formal institutional structure, namely, the law and the judicial system. The provisions of the contracts, which are specific to them, are established by means of negotiations, and the remaining provisions are determined on the basis of the existing formal rules. Such contracts tend to define a list of tasks that the parties must perform, depending on each other and on external factors.

In contrast to transactional contracts, relational contracts correspond to agreements concluded between parties involved in the long-term cooperation process. The parties know that they complement each other and cooperation can lead to an increase in their ability (efficiency, revenues, benefits, etc.).

However, through a long time horizon and the fact that they are unable to determine in advance what the exact outcome of the cooperation will be, they are not able to lay out the exact objectives of their interaction and, therefore, are even less able to foresee all the specific problems that they will have to address post factum.

From this point of view, the contract has to establish the framework

conditions that will govern cooperation. Such a contract tries to create cooperation based on mutual trust by constantly improving the mechanism for managing and developing joint knowledge and achieving mutually beneficial results.

In general, contracts are designed to organize decision-making processes and information exchange [5]. More precisely, there is a continuum of contracts, which depends on the degree of decentralization [5]:

- the central government determines the goals and only delegates the decision on their implementation (choice of funds) to the TPA;
- the central government delegates most of the policy development to an agent who, in turn, selects a sub-target for the policy in addition to the way it is implemented. The principal's problem in this case is to determine the distribution of control between CPA and TPA and the procedure for renegotiation, which should be established to re-discuss the obligations of both parties.;
- policy objectives as well as implementation procedures are selected mutually by CPA and TPA in cooperation.

In the first two situations, the objectives and the means of implementation are defined at the central level, and the task of the central government is to develop mechanisms that optimally shape the territorial level of power to which part of the powers can be delegated. The third situation requires the definition of a cooperation framework in which the parties agree both on the purpose and on the means of implementation. The main challenge is to ensure effective information exchange and joint decision-making [7].

Delegation may or may not involve the transfer of agent power and discretion (i.e. TPA). When no power is delegated, TPA choose both goals and means to achieve them. On the contrary, devolution of some power means that the right to control means and/or various elements of public policy is also devolved to the agent.

The choice between delegating or not delegating power to TPA depends largely on a cost/benefit analysis. It may be useful to give powers to the agent to

obtain benefits arising from its increased motivation and more accurate information for the development and implementation of goals and decisions. Delegation of authority can also be useful as it reduces the previous cost of developing the terms of engagement and contracting and reduces post-control costs. However, delegating authority to an agent leads to some loss of control, which in this case can be referred to as losses.

Factors to be taken into account here are the degree of complexity of tasks that are delegated; the degree of vertical interdependence between the principal and the agent; and the asymmetry of the information they possess [2]. Proceeding from this, we can note the following: when the complexity of tasks is low, interdependence is high and there is no asymmetry of information, there is no essential need in delegation of power. In such a situation, the central government is qualified and informed enough to clearly define public policy objectives, assess the costs, and set benchmarks for the implementation of those objectives.

Conversely, when the complexity of tasks is high, interdependencies are low and asymmetries of information are substantial, then central government may have difficulty defining strategic public policy issues on its own, so that some authority should be delegated to the agent.

When the complexity of tasks increases, it is necessary to delegate authority, and difficulties in determining the exact goals of CPA lead to the granting of discretionary power to TPA. In the most extreme cases, the principal and agent know that contractual objectives do not define expected efficiency and effectiveness, as it is difficult to correspond a set of complex objectives with performance criteria. In such situation it is possible to design some specific contracts, which have features of both transactional and relational ones. These may be, for example, contracts in which obligations relating to final objectives/activities to be achieved/accepted by the parties are added to open provisions. Such contracts have transactional features (e.g. they attribute bonuses and sanctions to the achievement of objectives/objectives), but since there is a need to implement

contracts in order to better know the real content of these "open provisions", they also have some features of relational contracts.

As the agent's discretionary power grows, the parties' dialogue becomes more visible and touches on all aspects of cooperation, going beyond a simple discussion of objectives and their dimensionality [1]. This leads to formal procedures for information exchange and collective decision making. Over time, a situation emerges in which the notion of delegation loses its meaning, since the parties tend to be equal and related to equity participation in the process of policy formation and implementation. The purpose any more as for transactional contracts, to motivate agents to use the information which they possess, in favor of the principal. Now the aim is to combine cognitive assets in the development and management of innovative projects, or at least, to build procedures for exchange of information previously unknown to the principal and agent, as well as for the formation of common knowledge and competences.

Since the central government often pursues a policy of decentralization in the long run, the choice of the best contract at a given point in time depends on the path of development that it should take. Therefore, it may be optimal to conclude a contract that provides for thorough verification of its implementation, but not to "punish" TPA for improper performance, but to understand in a timely manner what actions will be required from all parties to achieve certain goals. Typically, such a contract is useful in a situation where CPA are less aware of the information than TGAs to implement public policy at the territorial level.

If the situation is opposite, i.e. CPA have sufficient information on the implementation of public policy at the territorial level, it may be useful to conclude a contract aimed at gradual delegation of powers during its implementation. In this case, CPA "teach" TPA and increase the delegation of authority, if and only if CPA are convinced that TGAs increase their ability to implement public policy. And this is a strong enough incentive for TPA to increase their effectiveness. At the same time, CPA receive additional information related to the limitations of the

implementation of public policy at the territorial level, and it increases the ability of CPA to develop and control contracts.

When the complexity of the tasks is high, and thus both CPA and TPA do not understand how to link their tasks to clear objectives, and when the means are needed to achieve common public policy objectives, and when the level of policy-making is highly (vertically or temporarily) interconnected, then parties should develop a mechanism to ensure joint decision-making, dialogue between the parties and the implementation of collective information and communication.

In developing an optimal common decision-making mechanism, it should be borne in mind that joint decision-making certainly promotes information exchange, mutual understanding and confidence-building, but also duplicates certain efforts to obtain information and slows down decision-making. In addition, it can lead to behaviour aimed at shifting responsibilities from one party to the other. Therefore, the best solution is to introduce a review procedure for negotiations, one of the objectives of which should be to determine the right and capacity of the parties to make decisions by delegating authority between them, as well as to develop mutual accountability procedures to ensure the continuous exchange of information. In doing so, the ability to define common roles between CPA and TPA eliminates duplication of effort and provides a cost-effective way to deliver public services that address the needs of territorial communities.

However, it should be noted that the enforcement mechanisms differ significantly when there are transactional and relational contracts. For the existence of transactional contracts, different objectives to be achieved are tied to TPA activities. The principle which develops the contract aspires to minimise expenses for the incentive mechanisms realized in the contract, directed on motivation of the agent to observe requirements of the contract. For this purpose, the principal, firstly, tries to balance the cost of the positive incentive scheme with the cost of loss of control. Secondly, he tries to balance the cost of supervision with the possibility to apply certain sanctions for failure to comply with the contract.

Besides, to reduce the cost of the incentive mechanism the principal may use interaction with several agents and the fact that interaction "principal-agent", as a rule, is of cyclical nature [8].

In our view, no matter what kind of contract it is, in order to achieve its goals, a very important issue is to maintain trust between the parties. Often parties are bound by a free and incomplete contract in the sense that it does not protect the parties from all the dangers of inappropriate coordination. In particular, one party may fail to fully deliver on its previous promises or may try to misappropriate all the political benefits of joint activities.

Trust is also necessary because both parties rely on information provided by the other party and on initiatives proposed by the other party. In the process of interaction, both parties may make mistakes that they do not wish to disclose to the other party, or decide not to disclose some information because they consider it irrelevant, although the other party may consider it useful. This situation has a negative impact on the parties' interaction, increasing mutual distrust and destroying their cooperation, may eventually lead to the termination of the contract. To avoid this, it is important to establish mechanisms aimed at maintaining trust between the parties. In addition, it should be taken into account that the relationship between the levels of power should, as mentioned above, be cyclical, which provides an enabling environment for cooperation, since both parties have the opportunity to exchange experiences, which increases both the individual and the overall effectiveness of public authorities. But it is also important that the cyclical aspect of the relationship between the parties is an important factor in establishing and maintaining a relationship of trust.

Conclusions and prospects for further studies. Contracts are thus tools that can be used to reduce risks and costs associated with asymmetries of information, difficulties or inability to verify the behaviour of parties, lack of skills and failure to meet commitments. Four factors must be taken into account in determining the form and content of contracts: the knowledge of the parties; the

degree of complexity of the tasks to be performed under the contract; the degree of vertical interdependence; and the context of enforcement of the contract.

Contracts may have endogenous effects on these features, which means that they may change once the contract is implemented. Therefore, different forms of contracts can be used to solve many problems related to the interaction of different authorities, for example, in the framework of multilevel governance to ensure regional development. The definition of the specifics of such interaction may become a further area of research on this issue.

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