



Міністерство розвитку
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КОМІТЕТ
З ПИТАНЬ
ЕКОНОМІЧНОГО
РОЗВИТКУ

EU-LEAP
UKRAINE

CONCEPT

OF THE DRAFT LAW ON CORPORATE
GOVERNANCE IN MUNICIPAL
ENTERPRISES AND COMPANIES
WITH A SHARE OWNED BY
TERRITORIAL COMMUNITIES



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Block 1. Development of a New Law of Ukraine “On Corporate Governance in Municipal Enterprises and Companies with a Share Owned by Territorial Communities”

To ensure comprehensive legal regulation of relations concerning the management of municipal property, in particular municipal unitary enterprises and business companies with a share in the authorized capital owned by a territorial community, a separate Law of Ukraine “On Corporate Governance in Municipal Enterprises and Companies with a Share Owned by Territorial Communities” is being developed. The purpose of the Law is to clearly define the rights of the territorial community as the owner, as well as the powers of authorized management bodies regarding the possession, use, and disposal of these assets in order to meet public needs. The need for such a law also stems from the enactment of the Law of Ukraine “On the Specifics of Regulating the Activities of Legal Entities of Certain Organizational and Legal Forms During the Transitional Period and of Associations of Legal Entities,” which provides for the corporatization of municipal enterprises and the introduction of corporate governance instruments, thereby requiring separate legislative regulation.

Block 2. Block 2. Definition and Distribution of Powers between the Local Council (Owner), Authorized Management Bodies (Executive Bodies of Local Councils), and Supervisory Boards in the Management of Municipal Property



Local Self-Government Body (LSGB): establishes governance rules as the owner.

Key role: defines the strategic principles for managing community-owned enterprises. Approves procedures and policies for municipal enterprises and business companies where the community holds 50% or more, based on model procedures approved by the Cabinet of Ministers of Ukraine.

Its powers include: adoption of the Community Municipal Property Policy; approval (in accordance with CMU procedures) of the procedures for competitive selection of managers and supervisory board members, procedures for operation and evaluation of the supervisory board, determination of remuneration for managers and SB members, performance criteria, and reporting requirements.



Authorized Management Body (executive bodies of the council): ensures the implementation of council decisions.

Key role: implements the policy approved by the council and exercises control over the enterprises through administrative tools, as well as organizes the selection of supervisory board members.

Its powers include: appointment and dismissal of managers of municipal enterprises or business companies (if no supervisory board is required or established); conclusion and oversight of contract performance; approval of the letter of owner expectations based on the CMU procedure and control over its implementation; monitoring of financial activities and initiation of external independent audits; submission of candidates for owner's representatives and independent members of the supervisory board for the council's consideration; keeping records of assets, conducting inventories, controlling contracts and statutory documents; ensuring transparency and accessibility of information about enterprise activities.



Supervisory Board: exercises strategic oversight over the activities and governance of the organization. It is mandatory for municipal enterprises and business companies with 50%+ community share that meet specific criteria.

Key role: ensures professional supervision of the enterprise's activities and makes strategic management decisions without interfering in administrative matters or day-to-day operations.

Its powers include: approval of the strategic development plan, annual financial and investment plans, and reports on their implementation; approval of significant transactions; organization and implementation of the competitive selection of the CEO, including appointment, contract conclusion, determination of remuneration, and dismissal; development of key policies, including anti-corruption, corporate social responsibility (CSR), ethics, and sustainable development policies; implementation and oversight of internal audit, compliance, and risk management systems; preparation of the annual supervisory board activity report and evaluation of corporate governance effectiveness.

Such a distribution of functions will ensure qualified and targeted governance of municipal legal entities, increase transparency and accountability of their operations, streamline decision-making and administrative procedures, prevent conflicts of interest, and promote sustainable community development through effective management of its resources to meet public needs.

Detailed Allocation of Powers:

Distribution of powers between the owner, the authorized management body, and the supervisory board, and the need to establish a legal framework for such powers

Power	Legal Framework (CMU Procedure)	Council	Authorized Management Body (Council Executive Bodies)	SB
Council				
Determines the procedure for competitive selection of CEOs of municipal enterprises and heads of executive bodies of business companies with 50%+ community share where a supervisory board (SB) is not mandatory by law or charter	+	+		
Determines the remuneration procedure for CEOs of municipal enterprises and heads of executive bodies of business companies with 50%+ community share	CMU for SOEs	+		
Determines the remuneration procedure for supervisory board members of municipal enterprises and business companies with 50%+ community share	CMU for SOEs	+		
Determines the procedure for establishment, organization, and dissolution of SBs in municipal enterprises and business companies with 50%+ community share	+	+		
Determines the composition and powers of SBs in municipal enterprises and business companies with 50%+ community share	+	+		
Defines requirements for independent SB members in municipal enterprises and business companies with 50%+ community share	CMU for SOEs	+		
Defines the procedure for competitive selection and appoints independent SB members for municipal enterprises; defines selection procedure for independent SB candidates in business companies with 50%+ community share	CMU for SOEs	+		
Approves the Municipal Ownership Policy and its contents (requirements, principles)	CMU for SOEs	+		
Approves the procedure for nominating and appointing owner's representatives to SBs of municipal enterprises and business companies with 50%+ community share	CMU for SOEs	+		
Defines the reporting procedure of SBs to the authorized management body or general meeting of business companies with 50%+ community share regarding implementation of strategic plans and achievement of short- and medium-term financial, operational and non-financial goals of its activities outlined in the letter of owner expectations	CMU for SOEs	+		
Defines the procedure for assessing the performance of SBs in municipal enterprises and business companies with 50%+ community share	CMU for SOEs			
Defines the requirements for SB activity reports	CMU for SOEs			

Defines performance evaluation criteria for SBs in municipal enterprises and business companies with 50%+ community share	+	+		
Defines the procedure for evaluating achievement of goals set in the letter of owner expectations by municipal enterprises and business companies with 50%+ community share	CMU for SOEs	+		
Approves the procedure and criteria for selecting audit firms for financial audits of municipal enterprises and business companies with 50%+ community share	+	+		
Determines the procedure for publishing information on the activities of municipal enterprises and business companies with 50%+ community share	+	+		
Establishes efficiency criteria for managing municipal property	CMU for SOEs	+		
Defines the procedure for control over the management of municipal property	CMU for SOEs	+		
Authorized Management Body/Executive Committee				
Approves the regulations on the SB			+	
Organizes and conducts competitions for the selection of heads of MEs, heads of executive bodies of business companies with 50%+ community share, appoints and dismisses them, concludes and terminates contracts with them, monitors compliance with contract requirements if the SB is not mandatory or not provided for in the charter			+	
On the basis of the Municipal Property Policy and after consultation with the SB, annually approves the letter of owner expectations and monitors its implementation	Ministry of Economy Order		+	
Approves the strategic development plan, annual financial plan, annual investment plan, investment plan for the medium term (three to five years) for MEs, and business companies with 50%+ community share, if SB is not formed			+	
Monitors financial performance, in particular, the implementation of financial plans of enterprises under its management, and takes measures to improve their performance			+	
Ensures that the audit entity conducts annual independent audits of the financial statements of MEs, business companies with 50%+ community share; if SB is not required, has the right to initiate an independent audit in case of change of the head of MEs, and business companies with 50%+ community share			+	
Keeps records of municipal property assets under its management, controls the efficient use and preservation of such assets			+	
Determines the candidates for persons representing the interests of the community at the general meeting, in the SB of MEs/BCs 50%+, ensures their election (appointment) to the supervisory boards of MEs, and in BCs 50%+, ensures the submission of proposals for candidates for SB members			+	

Determines (in accordance with the procedure determined by the Council due to the CMU resolution) the candidates of independent SB members proposed for appointment (election) to the supervisory boards of MEs and BCs 50%+			+	
Approves joint venture and property management agreements and amendments thereto for MEs and BCs 50%+ and monitors compliance with the terms of such agreements in cases where the formation of SB is not mandatory			+	
Provides the council with information on: - financial and economic activities of each individual legal entity of municipal property; - the state of municipal property, including the corporate rights of the community, under its management; - contracts concluded with the heads of municipal legal entities			+	
Ensures that the constituent documents and internal regulations of the MEs/BCs 50% are brought into compliance with the law			+	
Ensures the inventory of property of MEs, BCs 50%+, if the formation of SB is not mandatory			+	
Ensures environmental audits of MEs, BCs 50%+, if the formation of SBs is not mandatory			+	
Supervises the submission of information on the activities of MEs, BCs 50%+ to registers/portals	+		+	
SB				
Approves the strategic development plan of MEs, BCs 50%+ in which a SB is formed				+
Approves the annual financial plan and the report on its implementation, the annual investment plan, the medium-term investment plan, performance indicators of the MEs, BCs 50%+				+
Performs enterprise risk management functions				+
Provides proposals to the authorized management body on short- and medium-term financial, operational and non-financial performance goals, which are included in the letter of owner expectations				+
Organizes and conducts a competitive selection for the position of head of MEs, BCs 50%+ in case of SB formation				+
Determines the criteria for selecting candidates for the position of head of MEs, BCs 50%+ in case of SB formation	+			+
Appoints and dismisses the head of MEs, BCS 50%+, approves the terms of the contract with him/her, sets the amount of the head's remuneration, concludes and terminates the contract with him/her, and monitors compliance with the terms of the contract				+
Ensures the audit of financial statements of MEs and BCs 50%+, determines the terms of the contract concluded with the audit entity, sets the amount of payment for its services				+

Decides to engage a business entity to conduct property valuation and approves the terms of the agreement to be concluded with it, sets the amount of payment for its services				+
Determines the forms of control over the efficiency of enterprise management and business risks				+
Determines the procedure for establishing committees and the specifics of their activities				+
Establishes an internal audit unit, approves the procedure for conducting internal audit and submits reports on its results				+
Appoints and dismisses the head of the internal audit unit, approves the terms of employment contracts, and sets their remuneration				+
Prepares an annual report of the SB on the results of its activities, evaluates the work of SB members and the quality of corporate governance				+
Formulates the company's anti-corruption policy, corporate social responsibility and sustainable development policies, and approves business ethics rules				+
Elects and terminates the powers of the corporate secretary, whose powers are determined by the Regulations on the SB				+
Implements internal control, compliance, and audit systems				+

Block 3. Defining Specific Governance Aspects and Restrictions on the Disposal of Municipal Property

1. The law should establish special governance rules for legal entities in municipal ownership, including procedures for their establishment, operations, and termination, as well as their legal status.

2. In particular, it is necessary to define specific governance aspects for non-entrepreneurial companies. It should be clearly outlined which corporate governance requirements apply to non-entrepreneurial companies and specify that a supervisory board may be established in such companies by a decision of the local self-government body. If a supervisory board is established, it shall be subject to the same requirements regarding composition, independence, functions, performance evaluation, and accountability as supervisory boards of municipal enterprises or business companies with 50%+ community ownership, in accordance with this law.

3. At the same time, it is advisable to provide for restrictions on the disposal of property by such enterprises to prevent losses and abuses by officials.

¹ norm 6013: A non-entrepreneurial company whose sole participant (founder) is a territorial community is subject to the corporate governance requirements set forth for business companies in which the state holds more than 50 percent of the authorized capital, taking into account the specifics set forth in this Law and the company's constituent documents.

Block 4. Introduction of a Municipal Property Policy of the Community

The introduction of a mandatory Municipal Property Policy of the community as a strategic document approved by the local council will allow for a systematic approach to managing municipal enterprises and the community's corporate rights.

The Policy should be based on principles established by law and on recommendations of central executive authorities (CEAs), and be subject to review at least once every three years. The Policy must undergo public consultation and be made publicly available.

Communities must develop and adopt the Policy within one year after the Law enters into force (e.g., 3 months for CEAs to develop recommendations, 9 months left for communities to adopt the Policy).

Proposed Structure of the Policy:

Justification for Retaining Assets in Community Ownership

The purpose and public rationale for retaining certain assets in community ownership (for example, the provision of socially important services, support for competition, maintenance of critical infrastructure)

Classification of Legal Entities in Municipal Ownership

Based on the grounds for retention in ownership, privatization, reorganization, or liquidation. Definition of categories with non-financial objectives (e.g., social, environmental, and other goals)

Criteria for Mandatory Application of Corporate Governance Instruments

The law will include a list of threshold indicators (income, assets, number of employees, signs of monopoly) that determine the mandatory implementation of corporate governance instruments:

- establishment of a supervisory board with a majority of independent members;
- implementation of an internal control system (internal audit, compliance, risk management);
- conduct of an external independent audit of financial statements.

These indicators must be reflected in the Municipal Property Policy. At the same time, the community may, at its discretion, supplement this list with other criteria that, in its view, also require a higher level of management transparency

Principles of Reporting, Transparency, and Management Objectives

Development of requirements for annual plans, financial and non-financial reporting, structure of information disclosure, and financial and non-financial performance indicators. The focus is on achieving the community's goals, not just profitability

Remuneration Policy for Executives and Supervisory Board Members of Municipal Legal Entities

Must be approved by the local council, based on the principles of transparency, fairness, market alignment, and reflect the purpose of the legal entities' activities

Letters of Expectations

Each year, based on the approved Municipal Property Policy and following consultations with the supervisory board, the authorized management body/executive committee (for municipal unitary enterprises) or the general shareholders' meeting (for business companies) approves the letter of owner expectations. This document outlines short- and medium-term financial, operational, and non-financial goals aligned with the enterprise's strategic development plan

Block 5. Introduction of Mandatory Corporate Governance Instruments for Certain Municipal Legal Entities

1. Establishing Application Criteria

The law defines the criteria under which a municipal unitary enterprise or a business company with more than 50% community ownership must implement corporate governance instruments. These criteria are as follows:

- 1) the value of assets is equal to or exceeds UAH 941,600,000 (EUR 20 million), based on the latest annual financial statements;
- 2) the average number of employees exceeds 250;
- 3) the enterprise does not qualify as a municipal non-profit enterprise.

According to preliminary estimates, 57 municipal enterprises fall under these criteria.

These criteria are subject to mandatory inclusion in the Municipal Property Policy. At the same time, communities have the right to expand the list of municipal enterprises subject to these legislative requirements.

2. Corporate Governance Instruments

All municipal unitary enterprises and business companies with more than 50% community ownership that meet three of the specified criteria must implement the following corporate governance instruments:

1. Establishment of a supervisory board that performs strategic management, oversight, and key personnel functions;
2. Open competitive selection of legal entity executives, with the winners selected by the supervisory board, which also signs contracts with them based on the results. The requirements, powers, functions, and remuneration of the executives are governed by law, the charter, and supervisory board decisions;
3. Implementation of an internal control system, including compliance, risk management, and internal audit, with the supervisory board responsible for overseeing its operation;
4. Annual independent financial audit, which falls within the competence of the supervisory board.

Block 6. Establishment and Composition of the Supervisory Board

For municipal enterprises and business companies with 50%+ community ownership share that fall under the mandatory criteria, the law sets requirements for the composition, formation procedure, powers, and functioning of the supervisory board.

The authorized management body/local council, in cases where a municipal enterprise or business company with 50% community share falls under the criteria defined in Part 1 of Block 5, is obligated to initiate an open selection process for independent members of the supervisory board and appoint the owner's representatives no later than within 60 days.

1. Number and Structure

The supervisory board is formed with between 5 and 9 members.

The majority of its members must be **independent**, selected through an open competitive process. The standard procedure for selecting independent supervisory board members is approved by the Cabinet of Ministers of Ukraine.

2. Term of Office

Supervisory board members are elected for a term of up to 3 years with the possibility of one re-election. The head of the board is elected from among its members by a majority vote for a 3-year term.

3. Rules of Procedure

The internal organization of the supervisory board's work (meetings, decision-making, powers of the head, rights of members, remuneration, etc.) is determined by law, the charter of the enterprise or company, and the regulations on the supervisory board, which are approved by the council in the case of municipal enterprises, or by the general meeting of participants (shareholders) in the case of business companies.

4. Powers of the Supervisory Board

The competencies of the supervisory board are defined by law and the charter of the enterprise. Other governing bodies are not permitted to interfere in the exclusive powers of the supervisory board.

5. Requirements and Restrictions

The law establishes criteria for independent supervisory board members, qualification requirements, as well as restrictions regarding dual office holding, term limits, and grounds for early termination of powers.

6. Declaration Requirements

Independent members of the supervisory board and non-resident foreigners are not subject to asset declaration under the legislation on corruption prevention.

Block 7. Powers and Organization of the Supervisory Board's Activities for Municipal Enterprises and Business Companies with 50%+ Community Ownership

The supervisory board of a municipal enterprise or a business company with a 50%+ community ownership share performs strategic, oversight, and personnel functions. The law defines its powers, which may also be supplemented by the enterprise's charter.

. It is defined that the exclusive powers of the supervisory board include, among the main ones:

1) Strategic and financial planning:

- Approval of the enterprise's strategic development plan;
- Approval of the annual financial plan and report on its implementation;
- Approval of the investment plan (annual and mid-term);
- Determination of performance indicators;
- Providing proposals for the letter of owner expectations concerning financial, operational, and non-financial objectives.

2) Executive appointments:

- Organizing and conducting a competitive selection process for the position of the head of the municipal enterprise or business company;
- Defining selection criteria for candidates for the position of the head of the municipal enterprise or business company;
- Appointment and dismissal of the head, approval and oversight of contract terms, and determination of remuneration.

3) Oversight and independent evaluation:

- Approval of internal regulations governing the enterprise's activities (within the scope of competence);
- Providing proposals for the selection of an audit entity, approval of contract terms;
- Decisions regarding the independent valuation of assets, approval of the contract and appraiser's remuneration;
- Approval of significant transactions and related-party transactions.

4) Internal control and audit:

- Establishment of an internal audit unit, approval of its procedures and reporting standards;
- Appointment and dismissal of the head of internal audit, approval of contract terms for audit staff;
- Oversight of the effectiveness of internal control systems, risk management, and compliance functions.

5) Policies, ethics, and accountability:

- Preparation of the supervisory board's annual report, self-assessment of its performance and the quality of corporate governance;
- Development of the enterprise's anti-corruption policy;
- Approval of the corporate social responsibility and sustainable development policy;
- Approval of the code of business ethics.

Other powers: Decisions on other matters that, under the law and the charter, fall within the exclusive competence of the supervisory board.



The Law also defines the following aspects regarding the supervisory board's powers:

1. Specific procedures for the supervisory board's approval of the strategic development plan, annual financial plan, annual investment plan, mid-term investment plan (three to five years), and the requirement for enterprise and company executives to report to the board.
2. The general procedure for organizing and conducting meetings of the supervisory board and for decision-making.
3. Specifics of the establishment and operation of board committees (such as the audit committee and the appointments and remuneration committee).
4. Specifics of appointing the internal auditor (or internal audit unit) and their activities.
5. Specifics of supervisory board reporting to the local council (an annual report on the board's work, which includes an assessment of its activities; the law defines the report's content, publication procedure, and deadlines).

Block 8. Evaluation of the Activities of the Supervisory Board of Municipal Enterprises and Business Companies with 50%+ Community Ownership

The activities of the supervisory board of a municipal enterprise or a business company with 50%+ community ownership, where the establishment of a supervisory board is mandatory, must be evaluated at least once every three years.

- The evaluation procedure follows the same rules as for state-owned enterprises, as approved by the Cabinet of Ministers of Ukraine ([Procedure for Evaluating the Activities of the Supervisory Board of SOEs and 50%+ Business Companies](#)).
- Evaluation criteria are approved by the authorized management body or the relevant council.
- The evaluation may involve an independent consultant, selected in accordance with the established procedure by the authorized management body or relevant council.
- Based on the results of the evaluation, decisions may be made regarding the renewal of the supervisory board's composition, adjustment of its powers, or implementation of measures to improve management effectiveness.



Block 9. Procedure for Remuneration of Executives of Municipal Enterprises, Business Companies, and Supervisory Board Members

1. The amount of remuneration for executives of municipal enterprises and heads of executive bodies of business companies is determined by the supervisory board (if established) in accordance with the principles set out in the remuneration policy approved by the local council.
2. Members of the supervisory board are entitled to compensation for their activities and reimbursement of expenses related to the performance of their functions, in accordance with the remuneration policy for the supervisory board.
3. Legal entities in municipal ownership, where the establishment of a supervisory board is mandatory, are required to annually approve and publish a remuneration report for executives and supervisory board members. The requirements for the structure, content, and approval procedure of the report are set by the relevant council.

Block 10. Defining the Obligation to Disclose and Update Information on Municipal Property Assets and the Responsibility of Authorized Management Bodies

1. The head of a municipal legal entity and the authorized management body are required to disclose and update the list of information specified in [Part 8 of the new Article 60-2 of the Law of Ukraine «On Local Self-Government in Ukraine»](#) (amendments under draft law 6013) regarding municipal property assets:
 - On the Unified State Open Data Web Portal;
 - On the official websites of local self-government bodies;
 - In the functional service of the Unified State Register of State-Owned Properties.
2. The authorized management body is responsible for the completeness, accuracy, and timeliness of the disclosure and updating of information on municipal property assets.
3. Oversight of compliance with the requirements of this article is assigned to the central executive authority (CEA) responsible for ensuring the formation and implementation of state policy in the field of local self-government development.