УДК 342.5
DOI: 10.31359/1993-0909-2019-26-1-36

Рольф Кніппер

Франкфуртський університет
імені Йоганна Вольфганга Гете
Франкфурт-на-Майні, Німеччина

Олександр Миколайович Бірюков

Кафедра міжнародного приватного права
Київський національний університет
імені Тараса Шевченка
Київ, Україна

ТЕРИТОРІАЛЬНІ ГРОМАДИ У ЦИВІЛЬНО-ПРАВОВИХ ВІДНОСИНАХ

Анотація. *В Україні, у процесі проведення правової реформи, досить активно оновлюється чинне законодавство. На шляху до впровадження цивілізованих правил ведення економічної діяльності необхідно належно обґрунтувати ключові у даній сфері конструкції. Тому основна мета роботи полягає у аналізі територіальних громад у цивільно-правових відносинах. У роботі розглянуто практику застосування в сучасній Україні не зовсім природної правової конструкції – права оперативного управління, що з'явилась за часів радянської влади і довгий час була ознакою соціалістичного права. Було досліджено особливості застосування положень про відповідальність територіальних громад при розгляді справ про банкрутство юридичних осіб, створених ними, у контексті дослідження загальної проблематики відповідальності засновника за зобов'язаннями підконтрольних підприємств. Особливу значимість таке дослідження набуває в контексті сучасної реформи місцевого самоврядування, зокрема децентралізації влади. Встановлено, що для зменшення ризику постановлення спірних судових рішень необхідно внести зміни до Господарського кодексу України з метою наближення його окремих положень до сучасних умов ведення бізнесу. Одним з таких прикладів, як було наведено у цій статті, є право оперативного управління, що залишається в українському законодавстві з часів радянської доби. Право оперативного управління в радянській правовій системі відігравало свою роль, оскільки за відсутності повноцінного інституту приватної власності в соціалістичному праві через введення цієї правової конструкції забезпечувались виключні права держави в цивільному обороті і за її допомогою здійснювався захист соціалістичної власності. Автор вважає, що законодавцю необхідно виправити недоліки чинного законодавства і прибрати застрілі правові конструкції, які можуть і у майбутньому створювати проблеми для учасників правових відносин майнового характеру. У зв'язку з цим, вважаємо за доцільне підтримати ідею скасування Господарського кодексу України, ініційоване Міністерством юстиції України*

Ключові слова: право оперативного управління, банкрут, боржник, кредитор, реєстр кредиторів.

Rolf Knieper
Coethe University Frankfurt
Frankfurt am Main, Germany

Alexander N. Biryukov
Department of International Private Law
Taras Shevchenko National University of Kyiv
Kyiv, Ukraine

TERRITORIAL COMMUNITIES IN CIVIL LEGAL RELATIONS

Abstract. *On the way to the introduction of civilised rules of economic activity, it is necessary to properly justify the key constructions in this area. Therefore, the main objective of the work is to analyse the territorial communities in civil-law relations. The research work examines the practice of applying not quite natural legal construction, namely, in today's Ukraine operative management right that appeared during the Soviet times and has been an indicator of socialist law for a long time. The particulaties of applying the provisions on the responsibility of territorial communities when considering the cases on bankruptcy of legal entities established by them were investigated in the framework of the study of the general problematics of the founder's responsibility in accordance with the obligations of controlled enterprises. Such a research gains particular significance in the context of modern local self-government reform, in particular, power decentralisation. It was established that in order to reduce the risk of settling disputed court decisions, one should make amendments to the Commercial Code of Ukraine in order to approximate its individual provisions to the current conditions of running a business.*

Key words: operative management right, bankrupt, debtor, creditor, register of creditors' claims.

INTRODUCTION

In Ukraine, in the process of conducting a legal reform, the current legislation is being actively updated. At the same time, there are still quite contradictory legal categories in the codified laws, in particular those that appeared in the days of the Soviet regime and have been indicators of socialist law. Among such legal categories, first of all, one should mention the right of operative management. It is a common knowledge that the right of operative management as a legal concept was first introduced into the legislation of the republics of the former Soviet Union after the adoption of the Foundations of Civil Legislation in 1961.

Previously, this legal concept played an important role in justifying the protection of the socialist property of state enterprises. However, today, in the conditions of market relations' approval and adaptation of legal regulation of relations in the field of economic activity to the needs of the free market such legal categories create certain difficulties in law enforcement practice in resolving property disputes. Thus, in judicial practice, there arise the situations when the courts, referring to the existing provisions of legislative acts, interpret the rules of these laws in different ways and make in some ways conflicting court decisions [1;2;3]. First of all, it comes to the legal norms of the

Civil Code of Ukraine and the Commercial Code of Ukraine regarding certain provisions of liability for violated obligations of the civil-legal nature. However, there are examples of resolving property disputes with the participation of territorial communities in which certain court decisions are justified by the existence of specific relations between a founder and the enterprise based on the right of operative management.

Today, after rather a long and quite successful legal reform, such legal categories still remain in the Commercial Code of Ukraine. In modern science, certain aspects of the use of the right of operational management and full economic management in law enforcement practice were the subject of research in a number of publications, in particular, such scientists as Yu. Yu. Popov [4], O. I. Kharitonova [5], O. O. Kravchuck [6], A. G. Bobkova Ye. O. Zarudnev [7] and all.

The topic under research is actual because the approval of the rules of economic activity should focus on scientific concepts [8;9;10]. This problem is particularly relevant in the context of the modern reform of local self-government, in particular, the decentralisation of power. In the process of devolving powers to the local authorities, it is also stipulated to increase the responsibility of territorial communities and their representative bodies for the made decisions connected with effective use of property of local communities.

1. MATERIALS AND METHODS

The methodological basis of the research consists of various theoretical methods. With their help it was found that territorial communities were the owners of the property transferred by municipal enterprises to the economic management and other legal entities of public law – to the operational management. Territorial communities through the relevant bodies of local self-government exercise the right of management of the property transferred to the legal entities on the right of economic management or on the right of operative management. The method of analysis also allowed to reveal that territorial communities have a special legal capacity, by the content of which they can participate in civil relations in the framework of their authorities. At the same time, the powers regarding their participation in civil legal relations are mainly contained in the legislative acts of public law, but not private law which defines only the basis (basic parameters) of their participation in these relations.

For achieving a set aim there were also used:

• philosophical (dialectical) method – when studying the essence of the territorial community as a variety of participants in civil relations and the analysis of potential forms of participation of the territorial community in civil legal relations, namely, property relations and binding ones;

• legal (dogmatic) method – in clarifying the legal forms of participation of the territorial community in civil relations provided by the current legislation and the new Civil Code of Ukraine;

• method of system-structural analysis – when studying the concepts of "subject of law" and "subject (participant) of legal relations" and the application of the results regarding such a subject as a territorial community;

• the method of comparative law – when comparing the provisions of the current legislation of Ukraine with similar provisions stipulated in the legislation of other countries.

Therefore, the use of methodological research approaches in the scientific work determine the relevant procedures for the interpretation of phenomena, based on the use of different groups of methods of scientific knowledge.

2. RESULTS AND DISCUSSION

2.1 Particularities of bankruptcy cases consideration

Ambiguous practice of application of provisions on responsibility of territorial communities developed at considering the cases on bankruptcy of the municipal enterprises, including application of subsidiary responsibility of the founder on obligations. This was the reason for addressing to the study of the legal status of territorial communities in civil turnover, including the right to dispose the property of enterprises established by the participants of civil relations. Of course, this raises the issue of operative management in the current legislation as an element of the classical institute of property rights. In this context, it became necessary to address to the nature of social relations which are the object of regulation by the relevant norms of one of the current codified acts in the sphere of regulation of private law relations.

In one of the court cases on bankruptcy (in particular, in bankruptcy case No. 5023/4388/12 that were considered in the commercial courts, starting from 2012) the legal entity established by local government in the form of the municipal enterprise was declared bankrupt. A liquidation procedure was started and a liquidator was appointed.

The initiation of bankruptcy proceedings was preceded by the following: a founder of the legal entity – a territorial community – transferred the property to the enterprise established by it for use that is stipulated by the Commercial Code. In the result of performing its activity, with the use of the transferred property, an enterprise has accumulated debts to the state in the form of unpaid taxes and obligatory payments to the state trust funds. At the request of one of the creditors, a person is declared bankrupt. The liquidation procedure revealed the absence of property (the liquidation balance sheet drawn up by a liquidator did not contain property objects which can be recovered by law) necessary to repay debts. The liquidator, who was appointed by the court, filed an application for repayment of debts of the bankrupt by its owner, that is, the territorial community represented by the City Council.

It turned out that the problem was the existence in the domestic legislation of the legal structure of the operative management law which is difficult to link with the Central Civil Law Institute – the right of ownership. In this respect, one should note

that the disputed legal relations, in particular, relations of the right of ownership and the activity of legal entities established on the basis of communal property of territorial communities governed by two laws are of the same force – the Civil Code of Ukraine and the Commercial Code of Ukraine. However, the right of operative management is stipulated only by the Commercial Code of Ukraine. Liquidation of an insolvent debtor is regulated by a special legislative act in the field of solving the debt problems, that is, by the Law of Ukraine On Solvency Renewal of a Debtor or Bankruptcy" [11] (hereinafter – Law on Bankruptcy).

As can be seen from the circumstances investigated in the above case, the municipal enterprise established by the territorial community accumulated the debts, and the enterprise itself did not have property objects on the right of ownership. This was due to the fact that until the court's recognition of the fact of bankruptcy (the local authority) a founder by his order withdrew the property from the management of the municipal enterprise. The court established that on the basis of one of decisions of session of the City Council in 2005, there had been withdrawn 94% of all property of the municipal enterprise which was in the operative management and used for performing its statutory activity. Among such property there were buildings, structures, equipment and vehicles (garbage trucks, trucks, excavator, trailer, tractor and buses). At the end of 2005, on the enterprise's balance sheet there were accounted only the surplus balances of fixed assets with absolute depriciation that actually made impossible further activity performance of the enterprise.

Debts to the state amounted to more than 240 thousand hryvnias. The main and the only creditor for the obligations of the enterprise was the state represented by specialised funds and other state institutions. Thus, the register of creditors includes the requirements of the Social Insurance Fund for Temporary Disability, State Tax Inspection, Pension Fund of Ukraine, Fund of Obligatory State Social Insurance of Ukraine against Unemployment, Social Insurance Fund against Accidents at Work and Occupational Diseases. Any other creditors were not included in the register [12].

In this case there was also considered the application of a liquidator on the debts recovery of the municipal enterprise according to the register approved by the court from the founder-territorial community. In the court, the objections of the City Council were based on the fact that neither the current legislation nor the founding documents of a bankrupt stipulate the liability of a founder for the obligations of the municipal enterprise, therefore the territorial community represented by the City Council should not be responsible for the obligations of the municipal enterprises established by it.

It should be noted here that a pre-trial investigation was also conducted in the framework of this bankruptcy case with the aim to check if there exist whether there are in actions of a founder (the City Council) the elements of a criminal offense under Bringing to Bankruptcy Art. [13].

2.2 Particularities of property rights implementation

It is known that the relations on possession, use and disposal of property are regulated by civil law. The Civil Code of Ukraine classifies territorial communities together with the State of Ukraine, the Autonomous Republic of the Crimea, foreign states and international organisations as participants in civil relations (Art. 2 of the Civil Code of Ukraine) [14]. Art. 175 of the Civil Code of Ukraine (Responsibility for the Obligations of Territorial Communities) directly establishes that territorial communities are responsible for their obligations by their property, except for the property that can not be recovered under the law.

The particularities of certain property rights implementation regarding certain categories of legal entities are stipulated by the Commercial Code. In accordance with the content of operative management right enshrined in the Civil Code of Ukraine, the owner of the property exercises control over the use and preservation of the property transferred to the operative management directly or through the authorised body and has the right to withdraw from the business entity unexpended balances as well as property that is not used or used for other purposes (Art. 137 of the Commercial Code of Ukraine) [15].

During the consideration of the above case, the commercial courts of first and appeal instances, with reference to the provisions of the Commercial Code of Ukraine established that the property of the municipal enterprise was in operative management of this enterprise and could not be included in liquidation weight and used for repayment of debt to creditors. Such an approach is erroneous. As on the basis of the analysis of the relevant norms of the current legislation in the context of understanding the principles of civil law in general and the nature and content of property rights, the following can be noted.

1. According to the norms of the Commercial Code, the municipal unitary enterprise is formed by competent local government body in the administrative order on the basis of the separated part of municipal property which is assigned to the enterprise with the right of operative management (Part 1 and Part 3 Art. 78 of the Commercial Code of Ukraine).

In accordance with the law, a founder forms the authorized capital of the established enterprise, approves the Charter, distributes the incomes, directly or through the Head who is appointed by the founder, manages the company and forms its personnel, solves the issue of reorganisation and liquidation of the enterprise (Part 4 Art. 63 Commercial Code of Ukraine) as well as approves the reports on the performance of the subordinate enterprise.

As can be seen from the analysis of the relevant provisions of the Commercial Code, such an enterprise is under full control of the owner-territorial community which is represented by competent local government. This is also confirmed by Art. 137 of the Commercial Code (Right of Operative Management): the owner of the property (ter-

ritorial community) assigned to the business entity (municipal enterprise) on the right of operative management, exercises control over the use and preservation of the property transferred to the operative management directly (territorial community) or through the body authorized by it (local self-government body).

The responsibility of the state for the obligations of a legal entity established by it is directly stipulated regarding state-owned enterprises [16] – in case of insufficient funds on the account of the state enterprise, the state, represented by the authority in which field of management it is included, takes over full subsidiary responsibility for the enterprise's obligations (Art. 77 of the Commercial Code of Ukraine). Such kind of responsibility for the obligations of another, but similar by its legal status with the state enterprise, entity– municipal enterprise is not directly stipulated by the law. At the same time, the provisions of this law on the legal status of the municipal unitary enterprise state that the particularities of economic activities of municipal unitary enterprises shall be determined in accordance with the requirements of the Commercial Code of Ukraine regarding the activities of commercial state or state enterprises and Part 10 Art. 78 of the Commercial Code of Ukraine). In other words, the legal regime of municipal enterprises in economic relations is equal to the legal status of state enterprises for the obligations of which in case of lack of funds the founder is responsible.

Therefore, in accordance with the provisions of the Commercial Code of Ukraine, the activities of the municipal enterprise should be also regulated by the norms on the activities of state enterprises (Art. 76 and 77 of the Commercial Code of Ukraine), including also provisions on subsidiary responsibility of the authority that created the legal entity. In case of insufficiency of the funds which are at the disposal of state and municipal enterprises, the founder takes over full subsidiary responsibility for the obligations of such an enterprise and Part 7 Art. 77 of the Commercial Code of Ukraine).

2. For conducting a comprehensive analysis of the legal regulation of municipal enterprises, one should also take into account the general provisions of the Commercial Code. The responsibility of the founder of the municipal enterprise consists in repayment of a debt created by the enterprise in case of its liquidation. This follows from the understanding of the general principles of running an economic activity established in this system-forming law. Art. 5 of the Commercial Code contains a reference to the constitutional principles on which should be based the rule of law in the field of management. Thus, this article establishes that the basis of the legal economic order in Ukraine is the social orientation of the economy and the prevention of the use of property to the detriment of person and society.

The general understanding of this provision makes it clear that the law stipulates the duty of economic activity participants to properly use the property, to pay taxes and make obligatory payments to the state trust funds including to repay debts in case of liquidation of the controlled enterprise.

3. Although the right of operative management, provided by the Commercial Code, is not entirely consistent with the generally recognised understanding of ownership that

is based in three elements (sphere of competence): possession, use and disposal of property, for the purposes of this analysis it is important to pay special attention to the legal nature of the relevant legal relations which are regulated by the Civil Code [14].

By its nature, the right of operative management is similar to the right to use someone else's thing. When using this right by the general rule, an individual is obliged not to violate the rights and legally protected interests of citizens, legal entities and the state.

Another closest in essence legal regime of property transferred for temporary use is the construction of management of other people's property. In accordance with the provisions of Art. 1029-1045 of the Civil Code (Chapter 70 Property Management) under the property management agreement, the founder of the management transfers the property to the other party – the manager – for a certain period of time, and the other party undertakes to carry out on its own behalf the management of this property in the interests of the founder of the management. The main aspect in the legal regime of management of other people's property is that the law directly provides for subsidiary liability of the owner of the property for property claims against the manager.

In this context, one can not but refer to one of the most important principles of property rights which is set out in the Civil Code as follows: property obliges (Part 4 Art. 319 of the Civil Code). In a broad sense, this principle should be understood in the way that the owner of the property is obliged to use his property in the manner that should not do any harm the others including the state.

According to the provisions of the Civil Code, the enterprise is a property complex which is real estate by legal status (Part 3 Art. 191 of the Civil Code). Therefore, it is absolutely logical that the owner of the property is responsible for the proper use of the property.

The territorial community in civil turnover acts as an ordinary participant in civil law relations (Art. 2 of the Civil Code). It can establish legal entities under public law: municipal enterprises, joint municipal enterprises, educational establishments, etc (Part 2 Art. 169 of the Civil Code).

The Civil Code of Ukraine establishes that the municipal ownership includes property including funds which belong to the territorial community, and property management which is in municipal ownership is fulfilled directly by the territorial community and the local governments created by it (Art.327 Right of Municipal Ownership of the Civil Code of Ukraine).

An important feature of the legal status of the territorial community is that it acts in two qualities in relation to the legal entity established by it: as the founder of the enterprise (the owner of the property complex) and as the owner of the property that was transferred for temporary use.

In this case, the actions of the enterprise's owner (territorial community) can be regarded as such that not fully meet the requirements of the law. The owner of the property which he transferred for use to the controlled legal entity, did not ensure its proper use, namely, did not exercise effective control over the use of his property that

led to the violation of the rights of the others. It is important to note that these persons were recognized by the court as bankruptcy creditors, and their claims in the amounts established by the court are included in the register of creditors of the debtor in the bankruptcy case.

4. The effective use of municipal property objects is included in the duties of the owner of municipal property. It is directly stipulated by the Law of Ukraine On Local Government in Ukraine [17] in the provisions which concern definition of the concept of the municipal property right: this is the right of the territorial community to own, expediently, economically, effectively use and dispose of property at its discretion and in its own interests that is put to it, both directly and through local governments (Art. 1 of the Law).

5. One of the basic rules in the legal regulation system of insolvency relations is the obligation of the founder to take all necessary measures to prevent bankruptcy. This rule is stipulated in the Law on Bankruptcy. According to Art. 5 of this Law, the founders, including the state and territorial communities as participants of civil legal relations, are obliged to take necessary and timely measures to prevent bankruptcy of the debtor in order to prevent loss of solvency.

In the framework of measures on bankruptcy prevention of the individual by the founder can be granted financial assistance in the amount sufficient for the repayment of monetary obligations to creditors including obligations to pay taxes and fees (obligatory payments), insurance premiums for compulsory state pension and other social insurance. The above law stipulates separate procedure for this: reorganisation of the debtor before initiation of bankruptcy proceedings. In this case the specified requirement of the law was not complied with.

In accordance with the relevant provisions of the Law On Bankruptcy, the reorganisation of state-owned enterprises before the initiation of bankruptcy proceedings is carried out at the expense of the state budget of Ukraine, state enterprises and other sources of financing (Part 6 Art. 5 of the Law on Bankruptcy). By analogy and in accordance with the above rules, the same procedure should be applied to enterprises of municipal ownership.

Thus, a individual who fails to comply with such a requirement of the law can be held liable for negative consequences for the controlled enterprise in the result of failure to comply with the provisions of the law.

6. The above arguments are correlated with the case law of the European Union.

The European Court of Human Rights in some of its decisions, in particular, in "Ponomariov against Ukraine" Case presumes that the participants of civil legal relations are of legitimate expectations (which are usually based on clear provisions of law) as to what their contractors will duly perform their obligations. Even if the legislative acts do not directly establish additional (subsidiary) liability of the founders for the debts of legal entities established by them, such an obligation is motivated by reference to the theory of legitimate (legitimate) expectations [18]. This also applies and even to

a greater extent to the obligation to pay taxes and make obligatory payments to the budget and state trust funds. Taxes and revenues from the collected obligatory payments to the state special funds are the main source of formation of budgets (state and local) which are a necessary condition for the state to perform its basic social function, that is, to ensure the functioning of state institutions and financial stability of the state as a whole and territorial communities. After all, it is necessary for preventing the destruction of the statehood's foundations.

In another case related to bankruptcy which was considered in 2014 ("Liseitseva and Maslov against the Russian Federation" Case), The European Court of Human Rights directly noted that an enterprise that does not have sufficient institutional and operative independence from the founder (in this case of the municipal authority) should be responsible for the debts of the controlled enterprise [13].

This conclusion fully corresponds to the practice of the Constitutional Court of Ukraine which in one of its decisions found that the impossibility of the creditor in the case by the constitutional proceeding of the municipal enterprise in the court order to obtain sustaining for his claim that has already been found by the court (put on the register of creditors) can be regarded as a violation of the right to a fair trial [19].

The author states that taking into account the above, a single logical conclusion in the above contradictory situations can be as follows: according to the norms of the commercial and civil laws, bankruptcy law and case law of the European Union, the territorial community as the owner of the enterprise and property transferred to it in use on the right of operative management is to pay off debts in the liquidation procedure of the controlled enterprise recognized as bankrupt.

This conclusion is based on the fact that the territorial community as a full participant of civil turnover in the person of the Local Council, the founder of the municipal enterprise, is the owner of the property transferred to the enterprise for use and should repay the debts of the controlled entity which is liquidated according to the rules of bankruptcy law. According to the provisions of the Civil Code of Ukraine, such an enterprise is not a full owner of the property and in accordance with the definition of the right of operative management does not have the authority to dispose of this property at its discretion and in its own interests.

From the above example it is clear that the practice of applying certain norms of legislative acts in Ukraine is still affected by the Soviet legal conceptions which are unclear from the standpoint of modern law and cause difficulties and problems in law enforcement practice.

Today, the courts are trying to make decisions which are logical and understandable for citizens. Besides, applying the conflicting legal categories which are not inherent in the modern legal doctrine in law enforcement practice can give additional opportunities for (legal entities) individuals to avoid fulfilling obligations and not to repay debts to participants of economic activity even in case of termination of their activities.

CONCLUSIONS

So, territorial communities acquire and exercise civil rights and obligations through local self-government authorities within the limits of their competence established by law. Local self-government bodies are legal entities with their own powers, within the limits of which they act independently and are responsible for their activity in accordance with the law. Rural, township, city, district in the cities, district and regional councils have the seals with the image of the State Emblem of Ukraine and their names as well as accounts in bank establishments of Ukraine. The author notes that the problem issue is to avoid similar conflicts in law enforcement practice without making changes to the Commercial Code. One of such examples, as mentioned in this article, is the operative management right which has remained in the Ukrainian legislation since the Soviet era. The author notes that the operative management right in the Soviet legal system played its role because given the absence of a full-fledged institution of private property in socialist law and for the introduction of this legal structure, the exclusive rights of the state in civil turnover were ensured and with its help the protection of socialist property was carried out.

The author considers that the legislator needs to correct the shortcomings of the current legislation and remove outdated legal structures that in the future cause problems for the participants of the legal relations of property character. In this regard, we consider it reasonable to support the idea of abolition of the Commercial Code of Ukraine initiated by the Ministry of Justice of Ukraine.

Consequently, the state is responsible for the damage caused to other parties by the unlawful actions of its authorities and officials as well as by acts recognised as unconstitutional. This means that if in the result of the actions of such authorities, officials or acts other participants in civil turnover are caused losses, they are compensated by the state.

REFERENCES

[1] Toya, L., & Clark, B. (2018). Beyond Bias: Cultural Capital in Anti-Discrimination Law. *Harvard Civil Rights-Civil Liberties Law Review*, 53(2), 381–443

[2] Devlin, P. A. (2018). Jurisdiction, Exhaustion of Administrative Remedies, and Constitutional Claims. *New York University Law Review*, 93(5), 1234–1270.

[3] Caruso, D. (2018). Non-Parties: The Negative Externalities of Regional Trade Agreements in a Private Law Perspective. *Harvard International Law Journal*, 59(2), 389–430.

[4] Popov, Yu.Yu. (2004). The concept of the right of economic jurisdiction in the decision of a foreign court. *Ukrainian Commercial Law*, 5, 25–36.

[5] Kharitonova, O. I. (2008). The right of economic management and the right of operational management: problem issues. *Actual Problems of State and Law*, 38, 245–249.

[6] Kravchuk, O. O. (2011). Some issues of economic management and operational management of property of state property. *State and Law*, 52, 232–238.

[7] Bobkova, A. G., & Zarudnev, Ye.O. (2016). Regarding the economic management and operational management of property in comparison with the laws of the Federal Republic of Germany. *Bulletin of the National Academy of Legal Sciences of Ukraine*, 1 (84), 76–81.

[8] Montiel, I., Christmann, P., & Zink, T. (2019). The Effect of Sustainability Standard Uncertainty on Certification Decisions of Firms in Emerging Economies. *Journal of Business Ethics*, 154(3), 667–681.
[9] Capers, B. (2018). Evidence without rules. *Notre Dame Law Review*, 94(2), 867–907
[10] Akande, D., & Tzanakopoulos, A. (2018). Symposium: the crime of aggression before the international criminal court. *European Journal of International Law*, 29(3). Retrieved from http://www.ejil.org/article.php?article=2912&issue=144
[11] Law of Ukraine "On the Restoration of the Debtor's Solvency or Recognition as a Bankrupt". (1992). Retrieved from https://zakon.rada.gov.ua/laws/show/2343-12
[12] Carle, S. D. (2014). Conceptions of Agency in Social Movement Scholarship: Mack on African American Civil Rights Lawyers. *Law and Social Inquiry*, 39(2), 522–546.
[13] Prigusa, P. D. (2007). The economic and legal aspect of the grounds for liability for bankruptcy and the qualification of crimes. *Bulletin of the Prosecutor's Office*, 1 (8), 86–94.
[14] Civil Code of Ukraine. (2003). Retrieved from https://zakon.rada.gov.ua/laws/show/435-15
[15] Commercial Code of Ukraine. (2003). Retrieved from https://zakon.rada.gov.ua/laws/show/436-15
[16] Mashkovska, L. (2014). State Enterprise: notions, signs and legal nature. *Legal Ukraine*, 2, 57–61.
[17] Law of Ukraine "On Local Self-Government in Ukraine". (1997). Retrieved from https://zakon.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80
[18] Belyanevich, O. A. (2016). Concept of legitimate expectations and problems of its application by courts in Ukraine. *Private Law and Entrepreneurship*, 16, 41–45.
[19] Ministry of Justice explained why it is necessary to abolish the Commercial Code. Retrieved from https://www.ukrinform.ua/rubric-society/1949157-u-minusti-poasnili-comu-treba-skasuvati-gospodarskij-kodeks.html.

Rolf Knieper
Dr. Habilitat, Professor
Coethe University Frankfurt
60323, 6 Theodor-W.-Adorno-Platz, Frankfurt am Main, Germany

Alexander N. Biryukov
Doctor of Juridical Sciences, Professor
Department of International Private Law
Institute of International Relations
Taras Shevchenko National University of Kyiv
01033, 60 Volodymyrska Str., Kyiv, Ukraine

Suggested Citation: Knieper, R., & Biryukov, A. N. (2019). Territorial communities in civil legal relations. *Journal of the National Academy of Legal Sciences of Ukraine,* 26 (1), 36–47.

Submitted: 31/01/2019
Revised: 18/03/2019
Accepted: 28/03/2019