

3. Алексєєв В. М. Власність територіальних громад в Україні: шляхи розвитку / В. М. Алексєєв. – Чернівці, Технодрук, 2007. – 336 с.

4. Алексєєв В. М. Структури публічного управління в Україні: громадівські ради / В. М. Алексєєв. – Чернівці, Технодрук, 2014. – 76 с.

5. Відносини між державою і громадянським суспільством: Матеріали «круглого столу». – К., 2003. – 115 с.

6. Громадівська рада // Інформаційно-аналітичний бюлетень Асоціації Громадівських Рад України. – № 1. – Хмельницький, Вид-во ПАВФ «Інтрада», 2010. – 8 с.

7. Конституція України // Відом. Верховної Ради України. – 1996. – № 30. – Ст. 141.

8. Нижник Н. Р. Государственно-управленческие отношения в демократическом обществе / Н. Р. Нижник. – К.: ОП «Миронівська друкарня», 1995. – 207 с.

# Communal Property as the Material Basis of Life Support for Territorial Communities in Ukraine

Valeriy ALEKSYEYEV,  
Doctor of Public Administration

**The situation in the sphere of property management in the territorial communities of Ukraine is analyzed. The priority directions establishing a new form of ownership, i.e. communal property, are defined. The main reasons for the formation of new structures of public administration (community councils) are given.**

**Keywords: property, communal property, community council, territorial community, state administration, society**

'Property of the community', 'communal estate', 'a landlady' are concepts which had historically been established for centuries and were associated with the material basis of the Ukrainian community. However, they were not further taken into account during the organization process of local authorities due to various reasons (firstly ideological, and later, in the 1990-s, – political). Instead, during the times of Developed Socialism, the authorities proclaimed an illusory perspective of social welfare based on the collective work of citizens who didn't directly participate in state administration processes. After, in the days of independence, property which had been created by the people of Ukraine was then privatized for the benefit of particular individuals. Subsequently, the new owners (who had actually seized the property that had collectively been created by the people) couldn't wait for the final distribution of remainders of the state and municipal property in order to take full control over the economy of Ukraine. Such a situation became possible due to a lack of constant control over society. If a structured society based on core values is not formed in Ukraine, the rest of the property which is owned by the state and municipalities will suffer the same fate of privatization and alienation [Aleksyeyev, 2012: 88-89].

As a result of these trends, the territorial communities in Ukraine were left without financial guarantees and became more vulnerable which corroborates the ineffectiveness of state policy in the sphere of property relations. According to the scientific point of view, the state in only 'taking care' of the distribution and redistribution of property is not able to protect human rights and actually creates "lawlessness and legal nihilism, voluntarism and arbitrariness by the authoritative bodies". The state authorities which have spun out of society's control lose the support and protection of the people and are left hand to hand with those elements of chance and spontaneity inherent in the behaviour of large aggregations of people [7, 2003: 13]. Thusly, one can state that at this stage of the development of Ukrainian statehood, close relationships between the state and society haven't been established within the administrative system. Instead, the process of removing the public from administration of state and municipal property is still continuing. Moreover, the processes regarding the destruction of material and economic potential of the state are deepening. To deprive a society of its financial security means to deliberately provoke in its various forms destabilization at the state level beginning with subtle

forms of protest and ending up with open aggressive actions. According to scientists, the problems of privatization and economic reforms may even lead to social unrest (regardless of the political affiliations of citizens) and, at the same time, to a radical change of the political leadership of the country [Nyzhnyk, 1995: 159].

The purpose of the article is to prove the necessity of using communal property as a new form of ownership at constitutional and legislative levels and the feasibility of establishing community councils (which are not to be confused with the public councils established under the executive bodies) as new structures of public administration.

Property is the basic element of life support for every society. Without it, social problems cannot be successfully solved, as the implementation of primitive administrative settlements could lead to a revolutionary upheaval which usually results in the re-privatization of property. Now, the privatized and alienated property can really be returned to the communities through the mechanism of fair re-privatization. First of all, one should take into consideration the fact that such property has usually been received illegally and without usage of the procedure of coordination with the territorial communities. At the same time, it should be noted that the control over this process both in political and economic contexts becomes futureless without the creation of those locally relevant conditions which allow the society to efficiently manage the joint property of the community. One should also remember that the process of returning property would need to take place under the difficult conditions of economic recession in Ukraine. Therefore, the structures of public administration which are capable of taking responsibility at the level of localities being unanimous with the state and of fully providing citizens with administrative services are quite necessary [Aleksyeyev, 2012: 90].

We should also not forget about the state of municipal property in the territorial communities, as it reaches the condition under which, over a certain period of time, one could state that this form of ownership does not exist in Ukraine. Even if some separate municipal objects remain, they would not be beneficial to the community due to the absence of a mechanism for proper financial maintenance. In general, the future of municipal property is not to be debated because the members of territorial communities are not able to protect and preserve municipal property by their own efforts, i.e. without the appropriate structures of public administration.

To correct this situation citizens need active steps and measures directed at, above all, the preservation of a community's property. However, state policy gave priority to private ownership and did not take into account the fact that a private owner could not withstand the competition in our realities and sell the objects for a designated purpose; so, the inhabitants of the respective territorial community might be left without the means of supporting their lives. First of all, we mean those objects of housing and municipal services. At the state level, officials have not provided the appropriate measures of restoring the objects of life support for the territorial communities at the expense of the state budget. Instead of that, they are trying to shift the responsibility in this area onto the market that, according to the theorists of 'a new wave' of mass privatization, is to bring the country out of the economic crisis. From both economic and political perspectives, this approach to this national problem must be considered as mistaken, since it does not contribute to the establishment of close relations between the state and Ukrainian society. On the contrary, such an attitude to the challenges existing in the field of property relations leads to systemic problems which are difficult to solve due to the absence of real influence of the subject (the state) and the object (the society) of state administration regarding this process.

One should also understand that property has the ability to change: when it is cared about, it may increase; and if it is neglected, it can reduce or even disappear. Therefore, it is important to maintain focus on this simple truth: property does not wait until it is taken care of by society and the state because it requires constant attention. Otherwise, the consequences of its misuse will be bothersome to both the subject and the object of state administration.

Recently, against the background of the financial crisis and political confrontation, some officials of local self-government bodies have engaged in frequent attempts to pass on those remainders of territorial community property in favour of third parties or to distribute land parcels belonging to communal property to their own accounts. One can find numerous occasions when officials of local self-government bodies, neglecting their official duties, engaged in collusion with businessmen from other regions to alienate the property of municipal ownership; sold land parcels and thereby even complicated the difficult state of respective territorial communities. Such an attitude towards the property of the community is illustrative of some deputies of local councils (especially in the end of their cadences), as they take decisions against the will of inhabitants of the localities that results in actual deprivation of the community's vital objects and reserve lands. Consequently, the community is often left alone with its problems. The state is not able to influence this process without real means for protecting the community from the above-mentioned actions of officials representing local self-government bodies and the deputy corps. In turn, it leads to confrontation between the authorities and citizens. Such phenomena cannot always be prevented through law enforcement and judicial authorities. Meanwhile, most of the issues that affect the interests of the residents of localities could be solved by joint efforts, and the irresponsibility of some officials could be opposed by a clear system for protecting the community from the attempts to illegally assume its property through the use of a structured society.

In general, it seems that tensions within society would continue until the time when society itself decides to change the situation in the field of public relations. This concerns not only the issues on localities' life support, but also the creation of conditions under which people can feel themselves as architects of their own fortunes and responsible for the results of their decisions. In such circumstances, there is a need for structures of public administration to be established through the direct participation of the inhabitants of localities. These should be built using a new form of ownership that is more secured from the encroachments of unfair local self-government officials and members of the deputy corps

who are not particularly concerned about the effects of privatization and alienation of the community's property.

A new form of ownership has to become a guarantor of development of the respective communities in Ukraine and prevent the misuse or improper alienation of their property. This property should be considered as a base of the material development of all Ukrainian society which is never the subject of privatization, alienation or sale [Aleksyeyev, 2012: 99-102]. By all means, a new form of ownership should not be idealized or prioritized in the context of establishing close relations between the state and society in Ukraine. However, its importance while implementing this process should not also be detracted in any way, as it is one of the most advanced elements of the system of relations between the state and society in the administrative sphere.

Communal property is the property which is mainly formed through the contributions of the residents of a respective locality, and is the joint property of the community [Aleksyeyev, 2005; Aleksyeyev, 2007]. This kind of property may be formed by a segment of the residents of a village, who, for example, live in the same street, or by the relevant territorial community as a whole. The transfer of communal property in trust of the other subjects would be inappropriate. In principle, such a solution is possible; however, from the perspective of protection of the communal property, the most effective decision is to entrust the administration of this property to the territorial community exclusively. With the help of administrators (in particular, experts in property), the territorial community is independently able to provide conditions for effective use of the property for the benefit of the inhabitants of the respective locality. However, nowadays there are not so many such experts, since their professional training is only provided by Khmelnytsky University of Management and Law. Therefore, the higher education establishments in Ukraine should urgently implement appropriate disciplines for the training of personnel in the sphere of communal property administration.

At the same time, there are problems related not only to organizational affairs, but also to the mechanism of the registration of objects and property of communal forms of ownership by the relevant authoritative bodies. In this regard, the main arguments of officials come down to the fact that the Constitution and other laws of Ukraine envisage only four forms of ownership: state, private, collective, and communal. So, a new form of ownership does not fall into any of these categories. To that end, officials find no grounds for registration of the objects of communal property. From a formal point of view, their refusals to register communal property seem to be substantiated. However, they ignore important conditions under which privatization, sale and destruction of the objects of property belonging to the territorial communities results in deprivation of means of life support. Thus, quite logical questions arise: who should be responsible for the re-registration of state or municipal property leaving the community without strategic objects for its life support; how may strategic objects be restored in order to ensure the proper functioning of the community, and where can one get the money for that? If the entire burden is imposed on the citizens only, that would indicate a short-sighted state policy to logically require determination of the responsibility for its consequences. But if the reason lies only in the formal approach of some officials, it is necessary to foresee the responsibility for the consequences of using formalism while considering the issues on the irrational use of the property, as it hardly damages the whole Ukrainian society [Aleksyeyev, 2012: 103-105].

Officials should be aware of the fact that the absence of effective measures to protect the material resources will eventually make the inhabitants of localities create life support facilities at their own expense. It would become one of the conditions of survival of the community in a difficult economic situation which has been led by the breach of an important principle of partner relations between the state and society in the administrative sphere. Therefore, there is a



necessity not only to apply a new form of ownership, but also to establish a system of protection of the property belonging to the Ukrainian people. In this regard, it is advisable to create a nation-wide system of social protection that can withstand the raider attacks of entrepreneurial structures trying to seize the property of the community in an illegal way. The people who have acquired the property of the community in the above-mentioned manner (contrary to the will of the citizens) can irresponsibly place production which is destructive to human health in the territory of localities or use their assets inappropriately which, among other things, complicates the delivery of services to the inhabitants. As structures of state administration and local self-government largely fail to withstand the displays of the actual seizure of property of the community, there is a need to create structures of public administration that are able to protect the interests of the localities' inhabitants [Aleksyeyev, 2012: 112-113].

In order to preserve and control the property of territorial communities effectively, Ukraine should create structures of public administration, i.e. community councils, which consist of authoritative residents of the respective localities [8, 2010: 1-3]. Having unchallenged authority and clear public positions such people are able to efficiently work in these structures and constantly control the preservation of property of the relevant territorial community. They should inform the public about its proper use at a general meeting of members of the territorial community.

The main argument used in favour of creating community councils is the requirements of Article 143 of the Constitution of Ukraine regarding self-administration of municipal property by a territorial community [7]. The other argument is connected with the actual theft of the property of territorial communities by some officials representing local self-government bodies. Due to lapses of the current legislation, most of them avoid appropriate punishment, since the decisions on privatization and alienation of property are taken by the collective bodies, i.e. by the local councils. Having promoted appropriate decisions such officials and deputies of the local councils are actually destroying local economies and leaving territorial communities without the objects for their life support. Furthermore, it undermines the timeliness and quality of services delivered to the residents of proper localities. There is no need to introduce numerous examples because all of us face such situations in our everyday lives. However, it is extremely difficult to prevent these negative phenomena.

Under the conditions of economic instability and political conflicts in Ukraine, community councils have proven their ability of being active advocates of the communities' interests. The effectiveness of these structures of public administration is assessed at the general meetings of members of the territorial communities. The community council shall be elected and dissolved at the general meeting of members of the territorial community in the case of its inaction, and it is the exclusive right of the relevant community [Aleksyeyev, 2014; 8, 2010: 1-3]. More information about the establishment and functioning of community councils in Ukraine can be found in the Magazine of the Verkhovna Rada of Ukraine 'Viche' (Issue № 10, 2014).

The necessity for the establishment of community councils exists not only to provide organizational measures for property relations at the community level. Developing such structures must become one of the elements of the system of inter-relationships between the state and society concerning administration in order to maintain an adequate level of life support for localities in Ukraine. A community council should give the highest priority to the organization activities related to property administration which is directly provided by the territorial community. However, nowadays the decisions that are taken at the general meetings of the citizens are not considered as prescripts. They are only taken into account by the local self-government bodies. This transforms the will of the community on a particular issue into the simple requests of local self-government bodies. Thus, the decisions taken at general meetings of the citizens become exclusively formal

acts for officials who try avoiding solutions to the existing problems (using drawbacks of the current legislation) rather than responding to them. Such situations illustrate the need for appropriate amendments to legislative acts. It is also advisable to hold a national referendum in order to resolve issues on the introduction of an additional title to the Constitution of Ukraine concerning the role of society in relations with the state which proposes to define a clear mechanism for building these relationships in the administrative sphere.

So, property is not only a material basis, but also an important component of the procedure for establishing close administrative relationships between the state and society. In order to ensure that this component exists as not a virtual but real basis for establishing close relations between the subject and the object of state administration, the purely consumerist attitude to the state and municipal property should be changed to a careful and prudent one at both the national and local levels. If such a change does not happen in the nearest future, it will have to be done under more complex economic conditions. However, it definitely cannot be avoided.

To review the attitude to property and to find a reasonable compromise for its further use for the benefit of society and the state is one of the priorities of state administration. It is necessary to find a reasonable compromise on this issue between the state and society. Expectations of positive changes in the life of the country and the welfare of its citizens have nothing to do with either statehood or civic positions. The loss of time equals to the loss of control over the situation in the state and causes the negative reaction of society. In order to avoid such consequences, it is necessary to focus on the potential of society to carry out the direct administration of property through the structures of public administration, i.e. the community councils. Otherwise, having no material component of this process we can come to a point at which effective state administration may be out of the question.



## References

1. Конституція України від 28 червня 1996 р. [The Constitution of Ukraine, 28 June 1996] (1996), *Відомості Верховної Ради України*, 30, р. 141.
2. **Aleksyeyev V.** (2007) *Власність територіальних громад в Україні: шляхи розвитку* [Property of territorial communities in Ukraine: Ways of development]. Чернівці: Технодрук.
3. **Aleksyeyev V.** (2014) *Структури публічного управління в Україні: громадівські ради* [Structures of public administration in Ukraine: Community councils]. Чернівці: Технодрук.
4. **Aleksyeyev V.** (2012) *Суспільство та держава: управлінські взаємовідносини: Монографія* [Society and the state: Administrative relationships: Monograph]. Чернівці: Технодрук.
5. **Aleksyeyev V.** (2005) *Удосконалення управління комунальною власністю в Україні: організаційно-теоретичні засади* [Improvement of municipal property administration in Ukraine: Organizational and theoretical principles]. Чернівці: Технодрук.
6. **Nyzhnyk N.** (1995) *Государственно-управленческие отношения в демократическом обществе* [State administrative relationships in democratic society]. Київ: ОП 'Миронівська друкарня'.
7. Відносини між державою і громадянським суспільством: Матеріали 'круглого столу' [Relationships between the state and civil society: Proceedings of the round-table], Kyiv, 19 November 2003. Київ: НІСД, 2003.
8. *Громадівська рада* [Community council] (2010), *Інформаційно-аналітичний бюлетень Асоціації Громадівських Рад України* 1: 1-8. Хмельницький: Вид-во ПАВФ 'Інтрада'.