



## Territorial Community as a Legal Entity of Public Law: General Problems of Theory and Practice

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DOI: <https://doi.org/10.15421/152316>**Tarasenko Tetiana**Dr. Sc., Assoc. Prof., <https://orcid.org/0000-0002-2713-6990>, Tarasenko.T@nmu.one*Dnipro University of Technology (Dnipro, Ukraine)***Abstract**

**Objective.** The purpose of the article is to set out the problem of determining the status of a territorial community as a legal entity under public law and to outline certain legal and public administration aspects of acquiring such a status.

**Relevance.** The importance of the study is stipulated by the practical needs to clarify the status of a territorial community and, at the same time, by the controversial nature of a number of issues related to this.

**Results.** The author traces the system-forming role of a territorial community for the institution of local self-government at the level of constitutional and legal provisions and the lack of a thorough understanding of the consequences of assigning to a territorial community the status of a legal entity under public law. The author summarises the characteristics of a territorial community which determine its role in the exercise of public self-government power. The author substantiates the need for a systematic approach to the legislative definition of the status of a territorial community, taking into account the legal, organisational, material and financial foundations of its functioning.

**Conclusions.** The author identifies the political (risks to the territorial integrity of the State, the threat of separatism, and the untimeliness of the issue in the current conditions of the State's existence; the existing capabilities of a territorial community to independently exercise its rights and obligations, and the necessary powers to protect the interests of the residents of a territorial community) and legal (lack of a holistic doctrinal vision of the legal status of a territorial community and a consensus of views on this issue) factors which determine the views on a territorial community as a legal entity under public law. The author confirms that granting the status of a legal entity under public law to a territorial community necessitates the introduction of appropriate clarifications and amendments to the legislation: finalisation of the name of the primary local self-government entity, strengthening the role of the territorial community charter, etc. Further consideration of the status of a territorial community as a legal entity under public law requires a study of the experience of European countries in regulating legal personality at the local level.

**Keywords:** territorial community, residents/members of a territorial community, local self-government, legal entity under public law, charter of a territorial community

## Територіальна громада як юридична особа публічного права: загальні проблеми теорії та практики

**Тарасенко Тетяна***Національний технічний університет «Дніпровська політехніка» (Дніпро, Україна)***Анотація**

**Мета.** Постановка проблеми визначення статусу територіальної громади як юридичної особи публічного права та окреслення окремих правових і публічноуправлінських аспектів набуття такого статусу.

**Актуальність.** Важливість дослідження зумовлена практичними потребами уточнення статусу територіальної громади та водночас дискусійністю низки питань, пов'язаних із цим.

**Результати.** Простежено системотворюючу роль територіальної громади для інституту місцевого самоврядування на рівні конституційно-правових норм та відсутність ґрунтовного осмислення наслідків закріплення за територіальною громадою статусу юридичної особи публічного права. Узагальнено характеристики територіальної громади, які визначають її роль у здійсненні публічної самоврядної влади. Обґрунтовано потребу системного підходу до законодавчого визначення статусу територіальної громади з урахуванням правових, організаційних, матеріальних, фінансових основ її функціонування.

**Висновки.** Виокремлено політичний (ризик територіальної цілісності держави, загроза сепаратизму, несвочасність питання в теперішніх умовах існування держави, наявність можливості територіальної громади самостійно реалізовувати права і обов'язки, необхідні повноваження для захисту інтересів жителів територіальної громади) та правовий (відсутність цілісного доктринального бачення правового статусу територіальної громади й консенсусу поглядів щодо цього) фактори, які визначають погляди на територіальну громаду як юридичну особу публічного права. Підтверджено, що надання територіальній громаді статусу юридичної особи публічного права зумовлює необхідність внесення відповідних уточнень і змін до законодавства: остаточне визначення варіанта назви первинного суб'єкта місцевого самоврядування, зміцнення ролі статуту територіальної громади та ін. Подальший розвиток статусу територіальної громади як юридичної особи публічного права потребує аналізу досвіду європейських країн щодо врегулювання правосуб'єктності на місцевому рівні.

**Ключові слова:** територіальна громада, житель/член територіальної громади, місцеве самоврядування, юридична особа публічного права, статус територіальної громади

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