

**PROBLEM ASPECTS REGARDING THE ESTABLISHMENT OF  
TERRITORY BOUNDARIES OF TERRITORIAL COMMUNITIES (IN THE  
CURRENT TIMES AND IN THE POST-WAR PERIOD)**

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*It is emphasized that the issue of establishing the boundaries of the territories of territorial communities currently remains relevant in Ukraine and presents new challenges caused by the state of war. The sequence (stages) of land management works related to establishing the boundaries of the territories of territorial communities is proposed. It is assumed that in the post-war period, the boundaries of the territories of territorial communities may be limited in their establishment, if these boundaries were located in the area of military (combat) operations or were under temporary occupation, encirclement (blockade).*

*Attention is focused on the difficulties associated with the financial capacity of territorial communities in ordering work on the development of land management*

*projects to establish the boundaries of these communities in the event of a return to peaceful life. The existence of disputes regarding the common borders between certain adjacent territorial communities made it necessary to introduce the possibility of partially establishing the borders of the territories of territorial communities in relation to crossing the border.*

*Ways of improving the process of establishing the boundaries of the territories of territorial communities and adapting it to the conditions of the state of war and the post-war period are proposed, through the examples of post-war boundary establishment in foreign countries. Proposals will be made regarding amendments to the land legislation related to the definition of the boundaries of the territories of territorial communities as a whole, as well as individual parts thereof.*

**Keywords:** *administrative-territorial unit, boundary of the territory of the territorial community, State land cadastre, land management*

**Formulation of the problem.** With the introduction of administrative reform in Ukraine (2020), 1,469 territorial communities were formed. The self-sufficiency of these communities is largely related to the establishment of their boundaries. The significance of this process will gain special importance in the post-war period. For its implementation, it is necessary to clearly establish the boundaries of communities from both a technical and a legal point of view. This will contribute to the inflow of investments for their recovery and development in the future.

In order to find out the actual boundary of the territory of a territorial community, to resolve disputed issues between several local self-government bodies regarding the boundaries of these communities, and to enter information about their boundaries into the State Land Cadastre, the land legislation (Article 46<sup>1</sup> of the Law of Ukraine "On Land Management") provides for the development of a land management project to establish boundaries of territories of territorial communities [1].

**Analysis of the latest scientific research and publications.** The research process and problems related to the establishment (restoration) between

administrative-territorial units were used by such scientists as: L. Novakovskyi, Y. Dorosh, A. Tretiak, O. Dorosh, Sh. Ibatullin, V. Boklag and others [2-7].

Particular attention was paid to the analysis of the scientific works of scientists who researched the establishment of the boundaries of community territories in countries that have gone through military conflicts: Zabara V.V., John Yarwood, Ana Miljenović, Nino Žganec.

Zabara V.V. studied the formation of the boundaries of territorial units in Bosnia and Herzegovina in 1992–2000: from the Cuteliero Plan to the international arbitration regarding the city of Brcko, pointing out the peculiarities of the process of establishing boundaries and its main stages through the prism of the Bosnian crisis of 1992–1995. The study devoted attention to the main stages of establishing borders and demarcation lines between national ethnic entities on the territory of this former Yugoslav republic [8].

John Yarwood highlighted the issues of territorial planning, urban planning after military conflicts, disasters and disintegration in the following countries: Ireland, Albania, the Philippines, Bosnia and Herzegovina, Afghanistan and others. The author pays special attention to the definition of the boundaries of the settlement of Mostar in Bosnia and Herzegovina and the establishment of the so-called "blue zone" [9].

Ana Miljenović, Nino Žganec on the example of the municipality of Vojnić in Croatia, disintegration processes and possibilities for the reconstruction of war-affected communities were studied. The authors proposed approaches to community reconstruction that relate to three dimensions: at the micro-level (related to the daily life of residents), meso-level (regarding social relations) and macro-level (factors that make the community an autonomous entity) [10].

Analytical materials of the "International Crisis Group" organization, which submits reports on the development and resolution of conflicts in various regions, using the example of the inter-ethnic borders of the Brcko District, are essential for consideration and a deeper understanding of the post-war establishment of the boundaries of community territories [11].

The above-mentioned developments of scientists and international organizations regarding the establishment (restoration) of the boundaries of the territories of communities are similar in terms of their research methods for different territories. These objects of research have their own specificity in legislation, culture and approaches to take into account the local characteristics of each country, which requires new decisions to be made when establishing the boundaries of the territories of territorial communities.

**The aim of the research** is to study the problems of the process of establishing the boundaries of the territories of territorial communities in the current conditions and in the post-war period.

**Materials and methods of scientific research.** The research used methods of scientific knowledge: monographic, analysis, generalization. The works of Ukrainian and foreign scientists regarding the establishment of boundaries of administrative and territorial units were studied using the monographic method. The method of analysis was familiarization with the norms of current land legislation and legal acts in the context of entering data on the boundaries of the territories of territorial communities into the State Land Cadastre (hereinafter referred to as the SLC) and establishing boundaries in kind (on the ground). With the help of the method of generalization, possible measures of a technical and legal nature regarding the establishment of the boundaries of the territories of territorial communities are proposed.

**Research results and discussion.** The Law of Ukraine "On Land Management" (Article 46-1) provides for the development of a land management project for establishing the boundaries of territories of territorial communities, which provides for a mandatory list of relevant documents: "explanatory note; tasks for the performance of work; copy from the draft of the formation of the territory of the village (village) council (if available); description of the boundaries of the territory of the territorial community; a drawing of the borders of the territory of the territorial community, drawn up on an appropriate scale; catalog of the coordinates of the turning points of the borders of the territory of the territorial community" [1]. However, there is no methodology and technique for developing a land management

project. In our opinion, when developing a land management project to establish the boundaries of the territory of the territorial community, taking into account the norms of Article 46-1 of the Law of Ukraine "On Land Management", it is necessary to be guided by the implementation of works in stages in a certain sequence. Each stage will characterize the process of obtaining accurate and reliable data about the object of land management.

The main stages of work required in the development of a land management project to establish the borders of the territory of the territorial community include: preparatory work; topographical and geodetic works; cameral works; project works; approval and approval of the land management project; formation of an electronic document; fixing the boundaries of the territory of the territorial community in kind (on the ground); preparation of materials for entering information into the State Land Cadastre. Each of the listed stages of work is characterized by a set of tasks that complement each other.

*Preparatory works* provide for drawing up and agreeing the assignment of work, collection, study of source materials, reconnaissance survey of the territory, analysis of land management documentation of previous years on the territory of the research object. At the stage of preparatory work, the need for further field topographical and geodetic work is determined. An integral element of the preparatory work is the creation of a digital cartographic basis for part of the territory of the territorial community, the boundaries of which are determined. Also, during the implementation of preparatory works, the formation of land plots of communal property in the zone of passage of the boundary of the territorial community may be carried out.

*Topographical and geodetic works* include the construction of a geodetic thickening network if necessary. A surveying geodetic network is also created and topographical and geodetic surveying of the area along the boundary of the territory of the territorial community is carried out.

At the stage of *cameral work*, the results of topographical and geodetic measurements are processed. A preliminary catalog of the coordinates of the turning points of the boundaries of the community is being compiled. Thanks to the compiled

catalog of coordinates, the preliminary area of the territory of the territorial community is calculated and a preliminary drawing of the boundaries of the territory of the territorial community is created. Thus, the execution of the chamber stage of the works involves the processing of geodetic measurement materials.

*Project stage* works are carried out based on the results of preparatory, topographic-geodetic and camera work, which allows to start designing the borders of the territory of the territorial community. During the design work, an analysis of the legal and actual boundaries of the territories included in the community is carried out. Also analyzed are the data of the SLC regarding the formed land plots in the zone where the boundary of the territorial community passes. In the future, the design position of the turning points of the boundary of the territory of the territorial community and the boundary as a whole is determined. The final element of the design works is the calculation of the total area and the drawing of the boundaries of the territory of the territorial community.

*Approval and approval of the land management project*, as a stage of work, requires the preparation of the following materials: draft decision of the body representing the interests of the territorial community; preparation of the text of the notification (announcement) regarding the determination of the date, time and place of approval of the project for establishing the borders of the territory of the territorial community. In the absence or correction of justified comments regarding the projected boundary of the territory of the territorial community, the relevant land management project is submitted for approval to the body representing the interests of the community.

*Forming an electronic document* as a separate stage of work is developed in the format of an XML exchange file, the requirements for which are established in accordance with the Resolution of the Cabinet of Ministers of Ukraine dated 10.17.2012 No. 1051 [12].

*Fixing the boundaries of the territory of the territorial community in kind (on the ground)* is carried out at the request of the customer (territorial community) on the basis of an agreed and approved land management project. If this stage of work is

carried out, an analysis of the border establishment project is carried out to determine the turning points of the border, which must be fixed with border signs. The appropriate catalog of coordinates of the established turning points of the border and the act of acceptance and transfer of border signs for storage are drawn up.

The final stage of the work is the *preparation of materials for entering information into the SLC*, which requires the conversion into electronic form of the land management project, the decision on approval of the land management project on establishing the borders of the territory of the territorial community in PDF format and information about the border in XML exchange file format. Entering information into the SLC on the basis of the developed land management project regarding the establishment of boundaries of the territory of the territorial community is carried out exclusively by state cadastral registrars.

All the above-mentioned stages of work are important and their full implementation makes it possible to solve in the future a number of tasks of the planning and management type, as well as tasks for the purpose of land management, which are defined by Article 2 of the Law of Ukraine "On Land Management". However, in current conditions, it is not always possible to find out the actual border of the territory of the territorial community in full, as well as to resolve disputed issues between several local self-government bodies regarding the adjacent borders of the territories of territorial communities. In the future, these disputes may go to the court level, which drags out the issue of determining the boundary of the territory of the territorial community.

To the problem of disputed issues between local self-government bodies regarding the borders of adjacent territories of territorial communities, problems of a financial nature related to a significant reduction in the financial resources of territorial communities were added.

Currently, a significant number of territorial communities in Ukraine are negatively affected by hostilities. In agreement with the Ministry of Defense of Ukraine, on the basis of the proposals of the relevant regional and Kyiv city military administrations, the Ministry of Reintegration of the Temporarily Occupied

Territories of Ukraine on an ongoing basis forms a list of territorial communities located in the area of military (combat) operations or under temporary occupation, surrounded (blocking). Conventionally, such territorial communities can be divided according to certain criteria: "temporarily occupied territories" [13]; "territories surrounded (blocking)" [13]; "territories where active hostilities are taking place" [13] (Fig. 1).

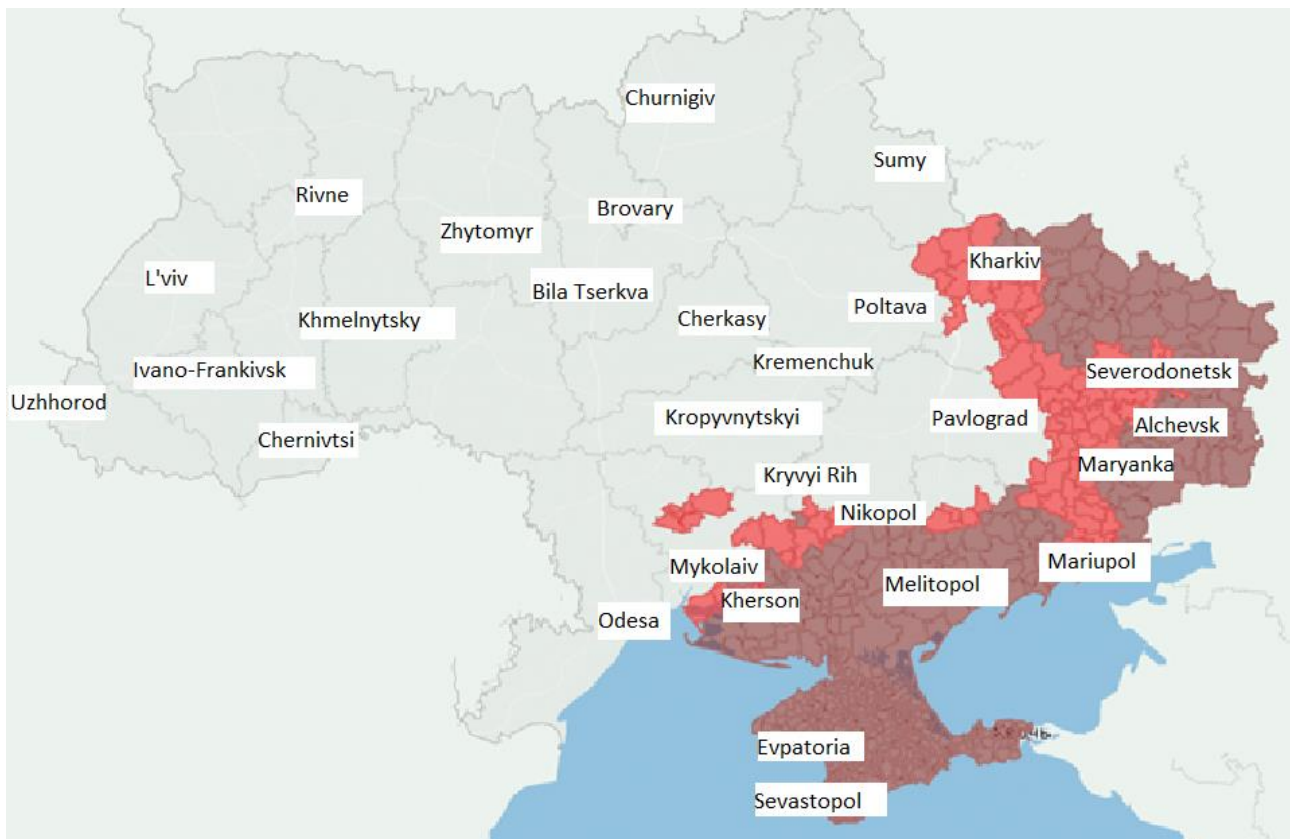


Fig. 1. The territory of Ukraine in terms of territorial communities affected by hostilities and under occupation as of the end of May 2022 [13].

The study of the foreign experience of the post-war establishment of the boundaries of territorial entities in such countries as: Albania, Bosnia and Herzegovina, Croatia and others indicates the need to establish the boundaries of the territories of communities and the boundaries of administrative-territorial units. Possibilities of creating international administrations under the auspices of the UN, the EU or other organizations should be worked out, for example, the functioning of the international administration of the European Union in Mostar (EUAM) on the



basis of the Washington Agreement of July 23, 1994 and their role in establishing the boundaries of administrative and territorial units, located under the combat zone.

Therefore, the process of establishing the boundaries of separate areas of the territories of the territorial community will be relevant in the post-war period in connection with the insufficient financial capabilities of the territorial communities. In such cases, there may be a need to establish only part of the boundary of the territory of the territorial community.

According to subsection 2 of clause 69<sup>4</sup> of the State Land Cadastre Management Procedure, it is provided that in the element "Description of the boundaries of the administrative-territorial unit/Description of the boundaries of the territory of the territorial community" - «(LandsMetricInfo) - metric information about the boundaries of the administrative-territorial unit/territory of the territorial community, namely: a graphic representation of the boundaries of the administrative-territorial unit/territory of the territorial community with the coordinates of their turning points, a textual description and the length "*as a whole and individual sections*" [12].

However, this possibility is not prescribed in the Procedure for maintaining the State Land Cadastre, Resolution of the CMU No. 1417 dated 12.23.2021 regarding the boundaries of the territory of the territorial community. In accordance with Appendix 41<sup>1</sup> of the Requirements for the content, structure and technical characteristics of the electronic document of land within the territory of the territorial community, the element is specified – *Externals Territory border – Boundary The border of the outer polygon* [14].

Considering the above, even in the State Land Cadastre Management Procedure the possibility is not excluded - "a graphic representation of the borders of the administrative-territorial unit with the coordinates of their turning points, a textual description and the length (*as a whole and of individual plots*)" [12].

According to the Law of Ukraine "On Land Management" - "*the boundary of the territory of a territorial community is a **conventional line** on the surface of the earth (including water space) that separates the territory of one territorial*

*community from other territories"* [1]. Thus, the word polygon is not used in the definition, and the boundary is represented by a line.

Taking into account the given definition of the boundary of the territory of the territorial community, as well as the one specified in accordance with subsection 2 of paragraph 69<sup>4</sup> of the Procedure for conducting the SLC, the boundaries of the territory of the territorial community can be determined both "*as a whole*" and "*individual areas*". Thus, we consider it expedient to foresee such a possibility both technically and legally.

It is necessary to make this possibility more concrete by making additions to Article 46<sup>1</sup> of the Law of Ukraine "On Land Management" in the part of the composition of the land management project and the basic elements of its development, approval and entry of information about the border (or part of it) into the State Land Cadastre.

**Suggestions.** Make additions to the paragraph *The land management project on establishing the boundaries of the territory of the territorial community includes:*

г) "description of the borders **(or part of the border to be established)** of the territory of the territorial community" [1];

г) "a drawing of the boundaries **(or a part of the boundary to be established)** of the territory of the territorial community, drawn up on an appropriate scale" [1];

д) "catalogue of coordinates of turning points of the borders **(or part of the border to be established)** of the territory of the territorial community" [1].

"Land management projects regarding the establishment of the boundaries of the territories of territorial communities are developed by the decision of the relevant village, settlement, city council, **military-civilian administration**" [1].

"Information about the boundaries of the territory of the territorial community is entered into the State Land Cadastre" [1]. **It is possible to gradually introduce individual sections of the border of the territorial community (parts of the polyline) to form a closed polygon of the border.**

**Conclusions.** The process of establishing the boundaries of the territories of territorial communities requires adaptation to the current and post-war conditions.

The proposed stages of work in the development of the land management project regarding the establishment of the boundaries of the territories of territorial communities will greatly contribute to the proper and justified establishment of the boundaries of the territories of territorial communities. This approach will make it possible to establish the borders of the territories of territorial communities not only "as a whole", but also for some communities "part of the border", where there were problems of a military nature. These measures will also make it possible to partially establish the border of territorial communities between which disputes arise regarding its passage.

Taking as an example the foreign experience of the post-war settlement of the issues of establishing the boundaries of territorial entities, it is suggested to consider the possibility of making changes to the legislation regarding the participation of military-civilian administrations in these processes.

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## **ПРОБЛЕМНІ АСПЕКТИ ЩОДО ВСТАНОВЛЕННЯ МЕЖ ТЕРИТОРІЙ ТЕРИТОРІАЛЬНИХ ГРОМАД (СЬОГОДЕННЯ ТА ПОВОЄННИЙ ПЕРІОД)**

*Наголошено, що питання встановлення меж територій територіальних громад наразі в Україні залишається актуальним, постає з новими викликами, спричиненими військовим станом. Запропоновано послідовність (етапи) виконання робіт із землеустрою щодо встановлення меж територій територіальних громад. Припущено, що у повоєнний період межі територій територіальних громад, які були розташовані в районі проведення військових (бойових) дій або які перебували в тимчасовій окупації, оточенні (блокуванні), можуть бути обмежені у їх встановленні.*

*Акцентовано увагу на складнощах пов'язаних із фінансовою спроможністю територіальних громад у замовленні робіт із розробки проектів землеустрою щодо встановлення меж цих спільнот у разі повернення до мирного життя. Наявність суперечок щодо спільних меж між певними суміжними територіальними громадами зумовила необхідність запровадження можливості часткового встановлення меж територій територіальних громад щодо проходження межі.*

*Запропоновано шляхи удосконалення процесу встановлення меж територій територіальних громад і адаптації його до умов військового стану та повоєнного періоду, через наведені приклади повоєнного встановлення меж у зарубіжних країнах. Наведено пропозиції щодо внесення змін до земельного законодавства пов'язаних із визначенням меж територій територіальних громад в цілому, так і окремих її частин.*

**Ключові слова:** адміністративно-територіальна одиниця, межа території територіальної громади, Державний земельний кадастр, землеустрій