

## The legal foundations and specifics of exercising corporate rights by individuals authorized to perform local self-government

Inna Pyvovar<sup>1\*</sup>, Volodymyr Tsikalo<sup>2</sup>, Nataliia Lavryk<sup>3</sup>, Yaroslav Bliakharskyi<sup>4</sup>, Oleksandr Slobozhan<sup>5</sup>

<sup>1</sup>Department of Law and Public Administration, Faculty of History, Zhytomyr Ivan Franko State University, Zhytomyr, Ukraine; pinna3535@gmail.com (I. P.)

<sup>2</sup>Department of Civil Law and Procedure, Faculty of Law, Ivan Franko National University of Lviv, Lviv, Ukraine; voltsikalo@gmail.com (V. T.)

<sup>3</sup>Interregional Academy of Personnel Management, Kyiv, Ukraine; nataliia.lavryk@gmail.com (N. L.)

<sup>4</sup>Department of Labor, Land and Commercial Law, Faculty of Law, Leonid Yuzkov Khmelnytskyi University of Management and Law, Khmelnytskyi, Ukraine; jaroslavblaharskij@gmail.com (Y. B.)

<sup>5</sup>All-Ukrainian Association of Local Governments «Association of Ukrainian Cities», Kyiv, Ukraine. slobozhan83@gmail.com (O. S.)

**Abstract:** Financial liberalization is a widely adopted policy for countries to enhance growth. Financial liberalization enables financial institutions to proceed with innovative activities by familiarizing themselves with fewer mortgage loans in the financial market. Financial liberalization is a widely adopted policy for countries to enhance growth; however, it is a complex and controversial issue, with different studies providing contrasting perspectives. Financial liberalization is considered an efficient way to measure and change the financial market and structure in order to reach a position to get financial liberalized markets under an efficient and effective guideline. In the case of Vietnam, very few scholars have investigated the issue of financial liberalization-led growth. This endeavor examines the effects of financial liberalization on economic growth in the presence of control variables for Vietnam over the period of 1990 to 2021. This study uses the Autoregressive Distributive Lag Model approach due to its several advantages. The results show that financial liberalization enhances economic growth, which implies that more liberalization results in enhanced growth in Vietnam. Improved access to credit is another positive outcome of financial liberalization, as it can result in greater access to credit for individuals and businesses, enabling them to make investments and expand their operations. Hence, the results support the neo-liberal view of liberalization.

**Keywords:** Corporate rights, Corporation, Functions, Legal relations, Local self-government, Objects of economic, Territorial community.

### 1. Introduction

One of the prerequisites for optimising and ensuring the sustainability of the material and financial basis for the successful functioning of a territorial community is the effective management of the corporate rights of territorial communities - objects of communal property rights. A unique role in this regard is assigned to the phenomenon of corporate rights of individuals authorised to perform local self-government functions.

At the same time, relations related to exercising the corporate rights of persons in managerial positions have not been adequately regulated at the legislative and legal levels. The corporate rights of such persons are transforming the influence of intensive decentralisation processes and are subject to violation by any citizen, and these rights are currently unprotected by law. One of the main advantages of local self-government is the ability to adapt solutions to different territories' specific needs and

characteristics. Civic leaders and elected representatives can understand the problems of their region better, ensuring effective solutions to the challenges faced by the community, which in turn helps to strengthen the relationship between citizens and authorities, contributing to the development of an open society.

Public management of territorial communities involves the implementation of several theoretical aspects. The main ones include conceptual foundations, management models, tools and methods of analysis, and factors affecting communities' financial sustainability and efficiency. At first glance, the conceptual framework for forming corporate rights of persons authorised to perform local government functions defines its purpose, objects and tasks. However, while the basic legal foundations of the mechanism for forming corporate rights of persons have found a place in many scientific studies, the problem of their adaptation to the modern concept of territorial community development remains, as a rule, beyond the attention of scientists.

The article aims to analyse the concept (definition) of corporate rights of persons authorised to perform local self-government functions legally and practically.

## 2. Related Literature

The issues related to ensuring legislative and legal regulation of the system of relations on the exercise of corporate rights within the framework of the territorial community functioning were considered in the works of such scholars as N. Hlus, E. Kybenko, O. Bobrovska, who, in their studies reveal the ways of acquiring corporate rights and their implementation in the course of managerial decision-making [1, 2]. Several leading scholars have made a significant contribution to the study of the impact of decentralisation processes on the system of corporate rights [3, 4].

Some scholars have substantiated the principles of differentiation of corporate rights, analysed them, and assessed the register's potential as an essential basis for making strategic decisions regarding the development of local self-government [5].

Several works by modern foreign scholars are devoted to studying the experience of implementing a corporate security risk management system [6, 7]. The issue of the expediency of digitalising a part of corporate rights, in particular, in terms of digital platforms as a tool for transforming strategic consulting in public administration, is highlighted in the works of some scholars [8]. Many scholars study the degree of interaction between managers and citizens, the causes of violations of corporate rights and freedoms during management activities [9, 10], exploring the relationship between the corporate governance system and the social responsibility of individuals and organisations as a whole.

However, despite the scientific developments on the specifics of exercising the corporate rights of territorial communities, there is no universally accepted definition and unified definition of these rights and the specifics of their management in modern conditions in the scientific community, making the study's subject matter relevant.

## 3. Research Methodolog

The methodological and theoretical basis of the work was formed, taking into account the priority principles of systemic research based on an integrated approach. Analysis and synthesis were used to identify the significant aspects and main elements of the object under study. The study used the comparison method to determine the specifics of corporate rights of persons authorised to perform local self-government functions. Deduction and induction were applied in developing proposals for optimising the legal framework of corporate rights and their optimisation as interrelated and interdependent components of effective local self-government.

The abstract-logical and dialectical methods of scientific cognition were used to clarify the conceptual apparatus, identify the main concepts and categories, and formulate the study's theoretical generalisations and conclusions. The formalisation method was applied at the identification stage of

priority vectors to optimise the corporate rights system of persons authorised to perform local self-government functions and also to structure the principles, functions, and tasks of their implementation.

#### 4. Research Results

In the traditional context, corporate law is considered from the standpoint of objective and subjective meanings. In the first case, it is advisable to position corporate law as a system of legal norms regulating personal relations regarding the creation and operation of commercial rights to obtain profit for further distribution among participants. About the definition of corporate rights in the subjective sense, the analysis of the postulates of the legal field leads to the conclusion that their content is overly broadly interpreted [11]. In other words, corporate law is a person's right to operate, part of which is determined in the authorised capital of the organisation. This includes the ability of citizens to participate in the organisation and management of a specific structure, to receive a share of profits in the form of dividends during the organisation's operation and assets during its liquidation, which is legalised by statutory documents.

Corporate rights have been defined in several legal acts. For the first time, the official definition of the concept at the legislative level was implemented simultaneously with adopting the Commercial Code of Ukraine (part 1 of Article 167). Part 2 of this article emphasises that possessing corporate rights is not considered entrepreneurship, and the law may restrict certain persons from keeping corporate rights and/or their exercise.

It should be noted that the above definition of the corporate rights phenomenon is not the only one. In particular, the definition is presented in the Tax Code of Ukraine (sub-clause 14.1.90, clause 14.1 of Article 14), where corporate rights are identified as the rights of a person whose share is determined in the authorised capital (property) of a business entity, including the right to participate in the management of a business entity, to receive a particular share of the profit of such entity, as well as other rights provided for by law and statutory documents.

The material basis of local self-government is determined by a set of resources that enable local authorities to perform their functions and solve the tasks assigned to them by law. The main components of the material basis of local self-government that may be directly or indirectly involved in the exercise of corporate rights of persons authorised to perform local self-government functions include the following:

1. Qualified personnel in decentralised governance is an integral part of the material basis, as professional and competent employees contribute to the adequate performance of the tasks of self-government bodies.
2. Property resources, in turn, include property owned by the ATC – land, buildings, infrastructure facilities and other property that can be used to meet the needs of the local population.
3. Economic opportunities, as local self-government can actively develop the economy of its region, attract investment, and implement projects to improve residents' living standards.
4. Financial resources, i.e., their budget, which is formed from taxes, fees, and other local revenues. Financial autonomy enables local authorities to address their territorial community's development issues.
5. Grants, subsidies, various forms of government assistance or international organisations provided for implementing specific projects and programmes.

The material basis of local self-government is a system of resources provided to local authorities to ensure their functions and tasks at the level of specific territories. These resources include financial, material, and other assets that determine the ability of local authorities to exercise their powers effectively in the community's interests.

Ensuring the effective exercise of corporate rights of authorised persons to perform local government functions is essential for the uniform development of different territories and for meeting the needs of the local population. Among the main aspects that intensify this process are:

1. Ensure adequate financial support for local authorities to enable them to perform their functions and implement projects to develop infrastructure, education, healthcare and other social sectors.
2. Local governments can be better equipped to develop and implement programmes and initiatives that meet the needs of their particular area and its residents.
3. Ensuring transparency and participation of citizens in decision-making processes, which contributes to the formation of effective local self-government.

The legal framework of local self-government defines the legal framework and principles of corporate rights of authorised persons, providing them with the necessary powers and determining the procedure for interaction with the central government. The legal basis for ensuring corporate rights should include:

- Guaranteeing local governments a greater degree of autonomy in addressing issues, allowing them to make decisions based on the specific needs and characteristics of their territories;
- Decentralisation of power, where the legal framework for local self-government facilitates the transfer of the lion's share of powers and responsibilities from central government to local authorities, which in turn will contribute to more effective solutions to local problems and satisfaction of citizens' needs at the local level;
- Creating a legal mechanism for protecting the rights and interests of citizens at the level of their place of residence;
- Defining development rules and strategic decisions that will contribute to the sustainable social and economic development of local communities;
- Regulating financial issues ensures local authorities have sufficient resources to perform their tasks and functions.

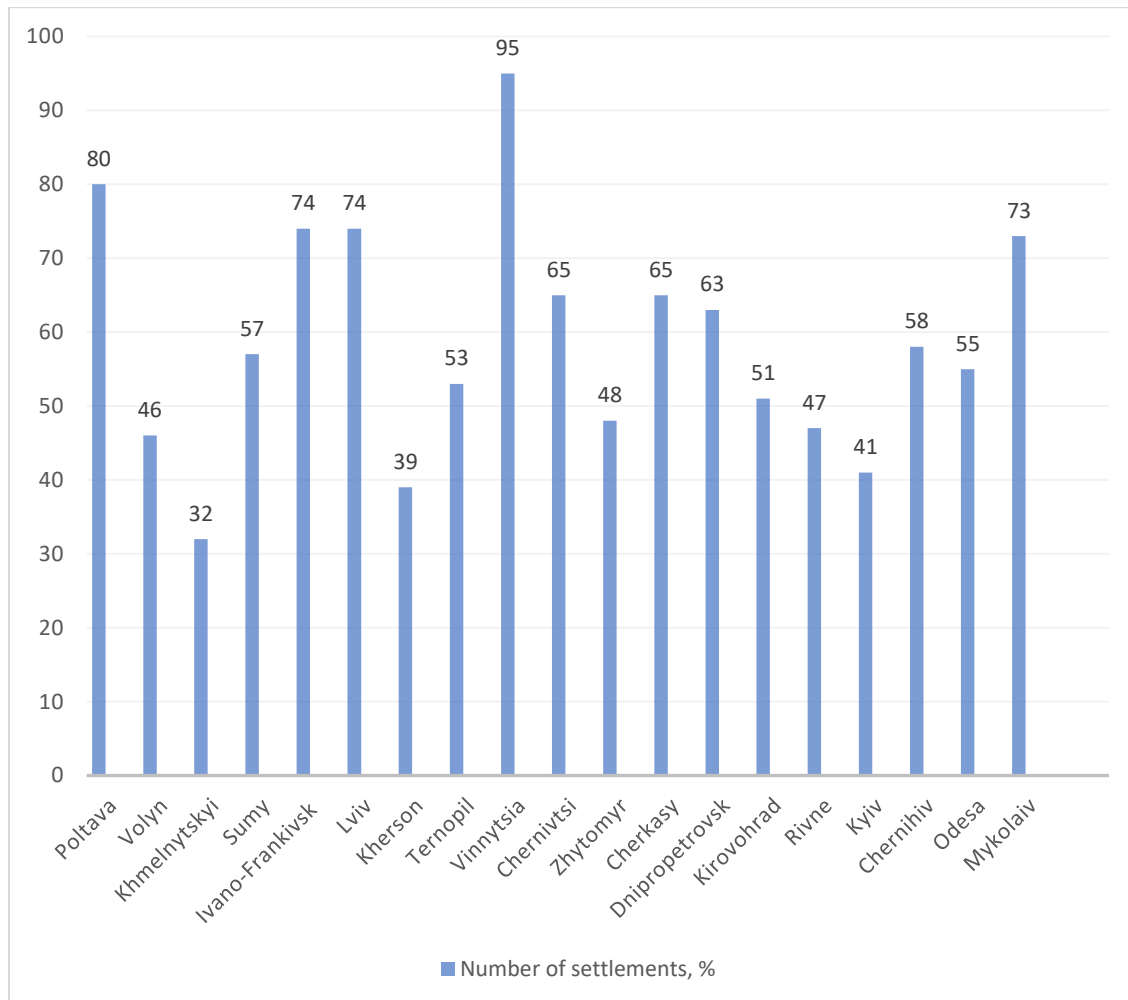
The legal basis for the system of management of corporate rights belonging to representatives of territorial communities in economic organisations, state and municipal enterprises is contained in the provisions of the Laws of Ukraine "On Local Self-Government in Ukraine", "On Business Associations", "On Joint Stock Companies", "On the Regime of Foreign Investment", and the provisions of the Civil, Tax and Commercial Codes of Ukraine. It is worth noting that the participation of local self-government bodies in economic and legal relations through authorised persons is a direct implementation of their economic and legal personality (Article 10 of the Law of Ukraine "On Local Self-Government in Ukraine") [12].

As of today, the issue of exercising the corporate rights of persons authorised to perform local self-government functions is reflected in the current legislation in a rather fragmentary manner. At the same time, corporate rights have not been made the subject of special legal regulation at the legislative level. Their legal regime hardly differs from the legal regime of other participants in business entities, except for the state. As a result, the effective management of corporate rights is virtually entirely dependent on the organisation of their management by the relevant local councils. In addition, efficiency is determined by the quality of control over the exercise of powers to represent the community's interests in the governing bodies of business entities [13].

A vital step to improve the efficiency of managing the corporate rights of communities is to inventory such rights and create a register of corporate rights of the territorial community. It is also advisable to include in the register information on the objectives of each business entity and the results of its activities expected by the community, which should be ensured by the relevant community representatives, as well as publish quarterly and annual reports on the implementation of the tasks [1, 2].

One prerequisite for the effective management of corporate rights of a territorial community is to define the purpose and main tasks of such management. This will allow authorised representatives of the community to clearly define the areas of activity of the management bodies of companies. Development strategies provide an opportunity to develop improved corporate rights of persons authorised to

perform local government functions. Figure 1 illustrates the approval status of strategic documents at the local level, except for territories not under Ukrainian control.



**Figure 1.**  
Status of strategic documents approval at the local level by region, as of 2024.  
Source: Compiled by the author based on [14].

Tax revenues from business structures in the territories, active investor attraction, entrepreneurship development, rural cooperation, agricultural business, and promotion of agricultural processing in cities are the main catalysts for strengthening economic potential and growth in amalgamated territorial communities. In other words, the economic initiative of its subjects affects the budgetary provision of the territories [15].

The decentralisation reform has opened up new opportunities for communities to create and strengthen the economic base for local development and obtain resources and finance. The new authorities have received their own delegated powers to address local development issues.

The phenomenon of corporatisation and its legal instruments can facilitate the systematic revision and adaptation of the existing management paradigm of local development to current circumstances and decode it into further strategic innovation. This creates a synergistic effect, increases local self-government's effectiveness, shapes general and specific development patterns, and determines the emergence of new models.

## 5. Discussion

Research by contemporary scholars shows that the prerequisites for effective strategic management of local development are ensuring an appropriate level of exercise of corporate rights, their legitimacy and compliance with the challenges of crisis periods of instability. In some scientific works, the essence of corporatism is based on socio-philosophical, economic and social approaches.

At the same time, the social components of the corporate rights system are seen as an effective source of strategic development of local self-government, reflecting in concepts and programmes the managers' social responsibility levels [16,17].

Scientists [18, 19] emphasise that special attention should be paid to the problems of the development of corporate principles in local self-government in the concept of its active reform. In these issues, the impact of scientific recommendations on the development of corporatism on the ongoing reforms and modernisation of local self-government bodies is significant. This will intensify the expected results of corporate achievements and motivate the need for further research into the phenomenon of corporatism in local self-government to increase its impact on the quality of community reform processes.

The authors I. Posokhov and S. Didukh studied municipalities from the standpoint of corporatism as complex multidisciplinary socio-economic corporations. The critical determinant of this is a priority focus on developing social capital and its active use in the management of economic and financial processes [4, 20]. This happens through unique mechanisms for implementing corporate relations, ensuring corporate rights are focused on achieving the common interests of the community, government, and business.

Most authors are convinced that local development's corporate rights system and strategic management are closely linked. However, scholars' conclusions regarding the practical tools for implementing the functions of such dependence are inconsistent.

## 6. Conclusions

Based on the analysis, it is clear that the long-term processes of decentralisation of regional development have made it necessary to regulate the system of relations related to managing corporate rights within the activities of territorial communities. This approach is positioned as one of the conditions for intensive regional development.

Relations related to exercising corporate rights of persons authorised to perform local government functions are not currently adequately regulated at the legislative and legal levels. The corporate rights of persons authorised to perform local government functions are transforming the influence of intensive decentralisation processes.

In some cases, corporate rights may be subject to seizure, mainly when the pre-trial investigation authorities believe that a particular company's charter capital may become evidence in a case. In this case, the investigator applies to the court for their seizure. According to Article 98 of the Criminal Procedure Code of Ukraine, the investigator must prove that these rights were used as an instrument of criminal action in the course of the crime. Most often, corporate rights are seized during the commission of criminal offences.

The concept of corporate rights of persons authorised to perform local self-government functions is a set of rights of territorial communities represented by local self-government bodies to the authorised capital of a business entity, including the right to manage, receive profit (dividends), and in case of liquidation of such an entity, to the assets themselves. The theoretical and legislative approaches to the definition of corporate rights, which form the legal basis for their implementation, will prove the need for sufficient financial and resource support for the direct, active and effective participation of local self-government bodies and persons authorised to perform their functions in the interests of territorial communities.

Implementing the regulation system of corporate rights of territorial communities and persons authorised to perform local self-government functions into the general model of the regional management paradigm is seen as a necessary prerequisite for developing the decentralisation process.



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## References

- [1]. O. Yu. Bobrovska, Application of the corporate way of management in territorial communities: a textbook, DRIDU NADU, 260 p., D., 2014.
- [2]. O. Yu. Bobrovska, Corporate governance of social development of territorial communities: a monograph: a textbook, Dnipropetrovsk Regional Institute for Public Administration, National Academy for Public Administration under the President of Ukraine, 232 p., 2014.
- [3]. N. Ivanova and O. Popelo, "Assessment of corporate governance in the context of implementing a sustainable development strategy," Scientific Bulletin of Polissya, vol. 1, no. 26, pp. 183-201, 2023. [https://doi.org/10.25140/2410-9576-2023-1\(26\)-183-201](https://doi.org/10.25140/2410-9576-2023-1(26)-183-201)
- [4]. Pokhylenko, "Politics and law in martial law conditions: search for a solution," collection of materials of the International Scientific Conference, Kyiv, 23 April 2024, pp. 157-160. <https://repository.knuba.edu.ua/handle/123456789/13124>
- [5]. I. Spasibo-Fatieieva, "The concept of property, property and corporate rights as objects of property rights," Ukrainian Commercial Law, no. 5, pp. 9-18, 2004.
- [6]. I. Kalina et al., "Introduction of a corporate security risk management system: The experience of Poland," Journal of Risk and Financial Management, vol. 15, no. 8, 2022. <https://doi.org/10.3390/jrfm15080335>
- [7]. D. S. Melnyk et al., "Practice of the European Union member states in the field of anti-corruption regulation," Journal of Financial Crime, vol. 29, no. 3, pp. 853-863, 2022. <https://doi.org/10.1108/JFC-03-2021-0050>
- [8]. V. Klochan et al., "Digital platforms as a tool for the transformation of strategic consulting in public administration," Journal of Information Technology Management, vol. 13, pp. 42-61, 2021. <https://doi.org/10.22059/JITM.2021.80736>
- [9]. V. Bielousov et al., "The Gig Economy and its Impact on Social Security and Social Protection of Employees [La Gig Economy y su Impacto en la Seguridad Social and Protección Social de los Trabajadores]," Revista de Derecho de la Seguridad Social, Laborum, no. 36, pp. 279-289, 2023.
- [10]. Zh. V. Harbar et al., Corporate governance and social responsibility. P. 2. Corporate social responsibility, Study guide: VNAU, 2020, 228 p.
- [11]. N. Lytvyn et al., "Enforcement of court decisions as a social guarantee of protecting citizens' rights and freedoms," Prawo i Wiez, vol. 39, pp. 80-102, 2022. <https://doi.org/10.36128/priw.vi39.351>
- [12]. K. Apanasenko, "Features of the legal property regime of municipal unitary enterprises," Entrepreneurship, economy and law, no. 4, pp. 78-81, 2006.
- [13]. V. Ustymenko, "General and special features of public property as a subject of scientific research," Bulletin of the Academy of Legal Sciences of Ukraine, vol. 4, pp. 185-200, 2012.
- [14]. Ministry of Communities, Territories and Infrastructure Development of Ukraine, "Over 90% of communities are developing or have already approved strategic development documents," Retrieved: <https://mtu.gov.ua/news/35390.html>, 2024.
- [15]. Corporate Development in Ukraine Project, International and national standards of corporate governance (a collection of codes and principles), International Finance Corporation, K., 2002.
- [16]. R. Voinovych, "Corporate state" and its role in the context of globalisation, Bulletin of the National Academy of Public Administration under the President of Ukraine, 2003.
- [17]. O. M. Vakulchuk, Corporate governance: economic and analytical aspect, Porogi, 257 p., Dnipropetrovsk, 2003.
- [18]. V. A. Ievtushevskiy, Fundamentals of corporate governance: a textbook, Znannya-press, 317 p., K., 2002.
- [19]. D. V. Zadykhailo, Corporate governance: a textbook, Kh., 668 p., 2003.
- [20]. M. Posokhov, "Model of corporate governance in Ukraine: formation, features, main directions of further development," Bulletin of The National Technical University "Kharkiv Polytechnic Institute": Technical Progress and Production Efficiency, no. 25. <http://vestnik.pp.ua/View/20645>