

## CURRENT STATE AND PROSPECTS OF LAND CIRCULATION IN UKRAINE

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**Abstract.** *The current state of agricultural land is considered destination in Ukraine after the official opening of land circulation and formed promising directions of its effective development. Generalization of factors influencing and developing land relations. The data of the State Service of Ukraine on geodesy, cartography and cadastre regarding the number of concluded deeds, as well as the area of land for which agreements were concluded by region were analyzed. The dynamics of changes in the average value of 1 ha of alienated land plots in the regions of Ukraine were monitored. The leading regions in terms of the number of alienated territories and the average cost of 1 hectare of land for commercial agricultural production were determined, and the main reasons for such variations were also clarified. Prospective ways have been formed improvement and development of market circulation of agricultural lands purposes that include: improving the integrity, accessibility and interoperability of data; optimization and improvement of assessment methods land as one of the most important steps of the State Property Fund of Ukraine; ensuring monitoring of the circulation of land plots and rights to them; magnification legal literacy and provision of legal support for citizens; adaptation and improvement of land legislation for the future functioning and development of land circulation during the period of martial law. After all, growth will depend on the efficiency of market circulation of land capacity of the population and territorial communities, as well as creation favorable conditions for the development of agrarian business in the countryside.*

**Key words:** *land circulation, land reform, agricultural land, land lease, land market.*

**Relevance.** The efficient, logical allocation and use of agricultural land is a crucial requirement for the operation of agriculture that is social and economic growth. The land market, which is often discussed, is the circulation of land. Buying free of land makes it possible to create your own farm or increase the existing one [5].

Regulation of the circulation of land by the state is an integral part of modern times land relations. Today, the land market is regulated in practically every nation where it operates. Each nation governs this issue in its unique manner according to the widely acknowledged model based on national interests and multifunctional state policy created with the aid of regulatory tools and mechanisms that are unified into a single concept [9, 11].

The practice of neighboring countries shows that the model of the circulation of agricultural land without an appropriate set of state policies intensifies such negative processes as: oligarchization, monopolization, depopulation of village territories, and a decrease in the income of the rural population. However, the model, which involves regulatory actions by the state, provides favorable conditions for attracting investment and cooperation between the public and private sectors in the economy. Ukraine has been actively pursuing European integration since the beginning of 2014. Therefore, after signing of the Association Agreement between Ukraine and the European Union, our state undertook to reform all spheres of legal, political, economic and social life in order to bring the legislation of Ukraine to *Acquis communautaire* of the European Union [12].

The circulation of agricultural land in Ukraine started on July 1, 2021. Therefore, all former owners of the moratorium territories now have full permission to dispose of them as they like. Therefore, there is a need to regulate market relations, provision functioning of free, efficient and balanced circulation agricultural lands.

**Analysis of recent research and publications.** The issue of the circulation of agricultural land, its concept, essence and prospects for development was highlighted by many scientists, among them: A. Tretiak [9]; N. Kushnir, O. Harnaga and I. Hnatiuk [4]; V. Budziak and O. Budziak [1]; R. Stupen [8]; I. Yurchenko [11],

R. Levek [5] and others. According to researchers, the functioning of the land market is a necessary step for the further socio-economic development of Ukraine, in particular rural areas on ecological grounds [2, 4].

The theoretical and practical foundation for the development of the Ukrainian model of the agricultural land market started to take shape with the considerable involvement of scientists [10, 11]. At the same time, for today land circulation needs further analytical study and definition strategic priorities and prospects for its effective development.

**The research aim** is to analyze the first results of functioning land market in Ukraine and determine strategic priorities for effective and balanced circulation of agricultural lands on the territory of the state.

**Research materials and methods.** The basis of the research methodology a system analysis - a set of methodological research tools - is assigned complex processes that make it possible to predict the development of the entire system of land relations with the application of the obtained results for preparation management and regulatory decisions. Scientific works and normative legal acts, which made it possible to form the main ways of development effective functioning of land circulation.

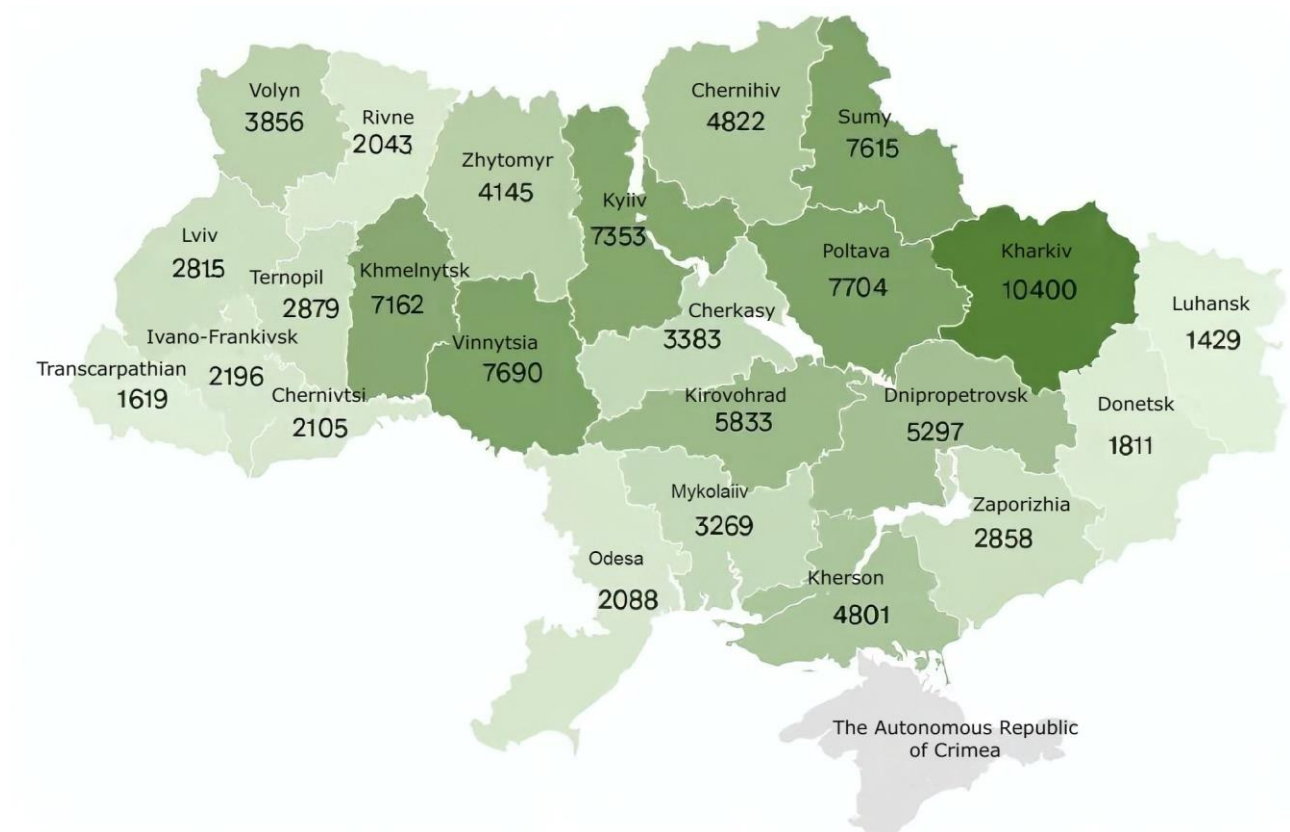
**Research results and their discussion.** The land is the key national wealth under the exclusive protection of the state. Land ownership is guaranteed, acquired and implemented exclusively by the state, citizens and legal entities in accordance with legislation [3]. Such vigilant land protection is understandable, because in the territory of Ukraine, 67.7% of all land is agricultural, which ensures the production of plant products in the amount of 8.7% of the global amount [6].

The circulation of agricultural land is subject to regulation influence of the state, taking into account national interests to ensure effective functioning of land circulation. In view of this, the Supreme Council on March 31, 2020, adopted the Law "On Amendments to Certain legislative acts of Ukraine regarding the conditions of agricultural land circulation destination" [7, 11]. The document became the basis for creating a legislative basis for the opening of the agricultural land market. It is

designed to implement the constitutionally enshrined citizens' rights to unhindered disposal of their allotments, as well as to create free conditions for acquiring ownership of agricultural plots for all citizens of our country.

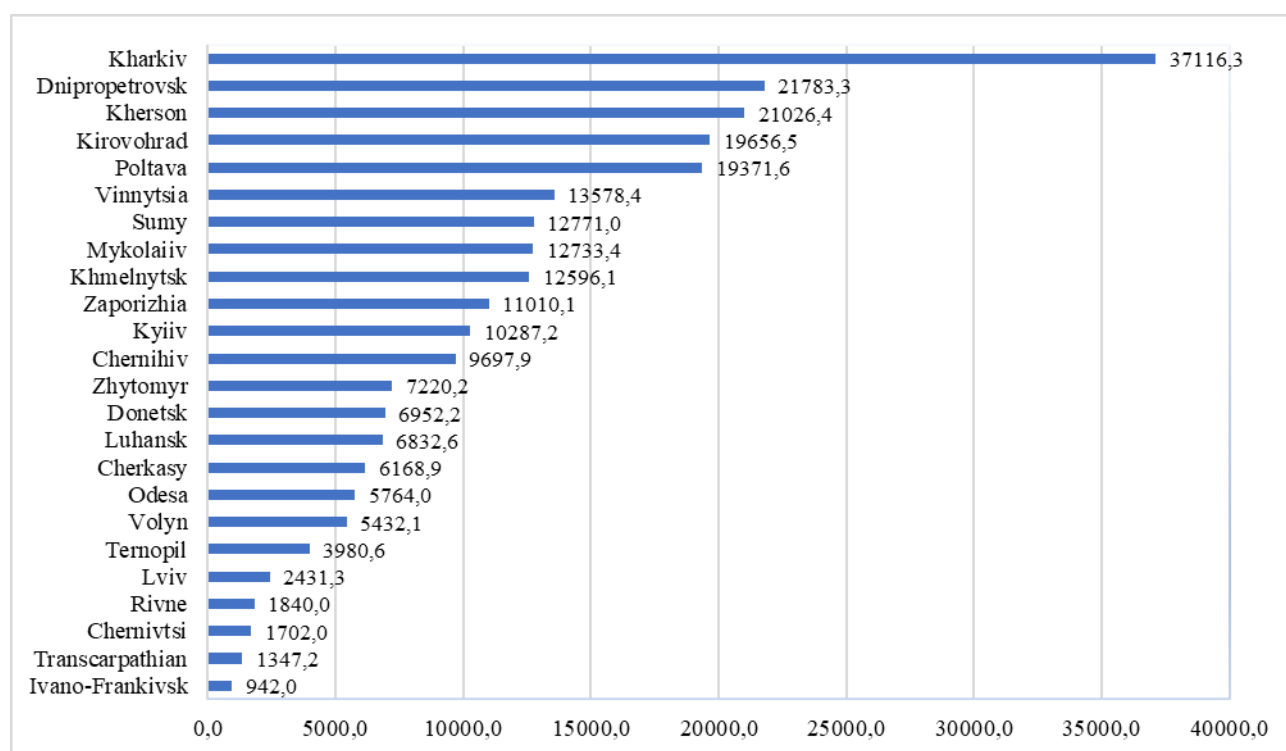
According to the adopted Law of Ukraine "On Amendments to Certain legislative acts of Ukraine regarding the conditions of agricultural land circulation appointment" in the first stage of its operation from July 1, 2021 only have the right to purchase agricultural land citizens of Ukraine (natural persons). At the same time, one person according to by law, has the right to dispose of no more than 100 hectares of land at the same time. However, we are not talking about land allotments that citizens owned before acquisition validity of the specified law.

Today, it is already possible to analyze the first results from the day of the official opening of the circulation of agricultural land. According to the data of the State Service of Ukraine for Geodesy, Cartography and Cadastre, during the first year from July 1, 2021, 105 173 legal transactions were carried out in the state, the area of which is 252 241 hectares [13]. At the same time, the largest number of registered agreements on the alienation of agricultural land is in Kharkiv, Poltava, Vinnytsia, Kyiv, Sumy, and Khmelnytskyi regions (Fig. 1).



**Fig. 1. Number of legal transactions by region as of July 1, 2022 [13]**

Kharkiv, Dnipropetrovsk, and Kherson regions became the leaders in terms of sales volumes of land shares (Fig. 2). Thus, in Kharkiv region, agreements were concluded that related to 37116.3 hectares of land. Dnipropetrovsk region took second place with an area of 21783.3 hectares. Kherson region is in third place with an area of 21026.4 hectares. Their leadership is caused by the larger land lots put up for sale in these regions. The exception was Ivano-Frankivsk, Transcarpathian, and Chernivtsi regions, where the least number of land shares were alienated – 942.0; 1347.2 and 1702.0 hectares of land, respectively, caused by the small amount of available land for sale [14].



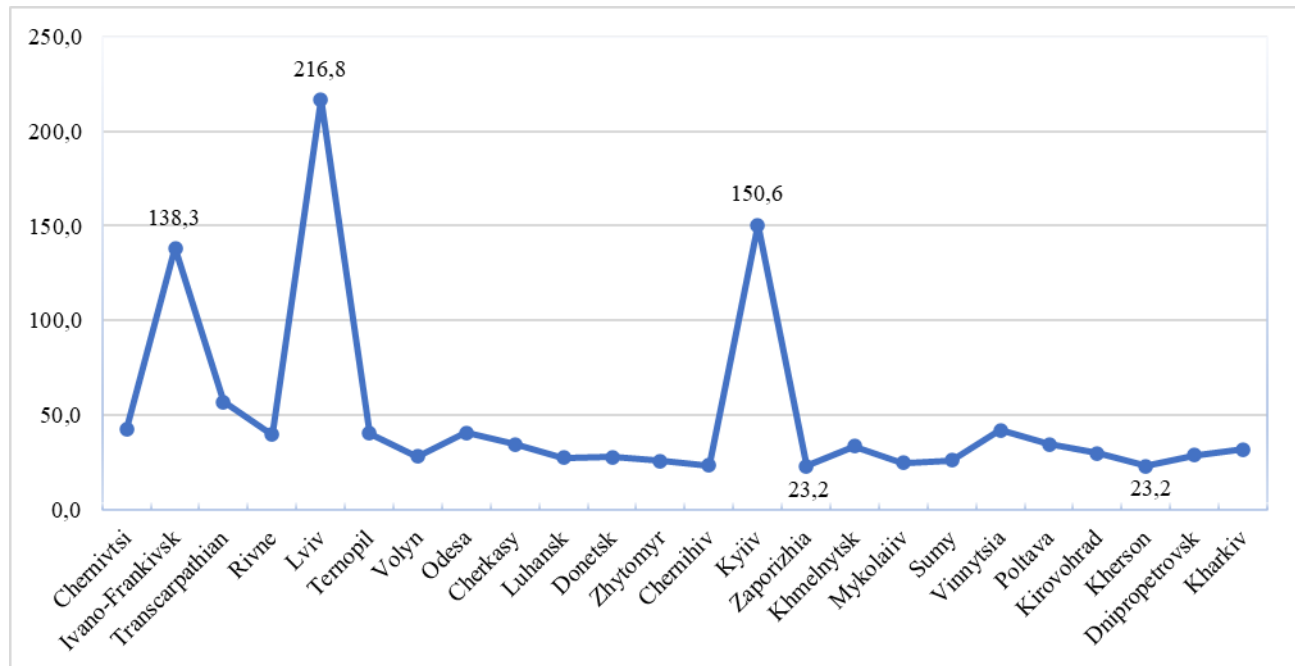
**Fig. 2. The area of land, in respect of which legal transactions were concluded, ha [13]**

Considering mentioned legal transactions, there are 88 000 land purchase and sale agreements, the total value of which is more than 7 billion UAH, which is about 1% of the entire area of agricultural land in Ukraine [14].

The average value of one hectare of alienated land on July 1, 2022 was 37 819 UAH, which is close to the normative monetary value. However, the spread of land

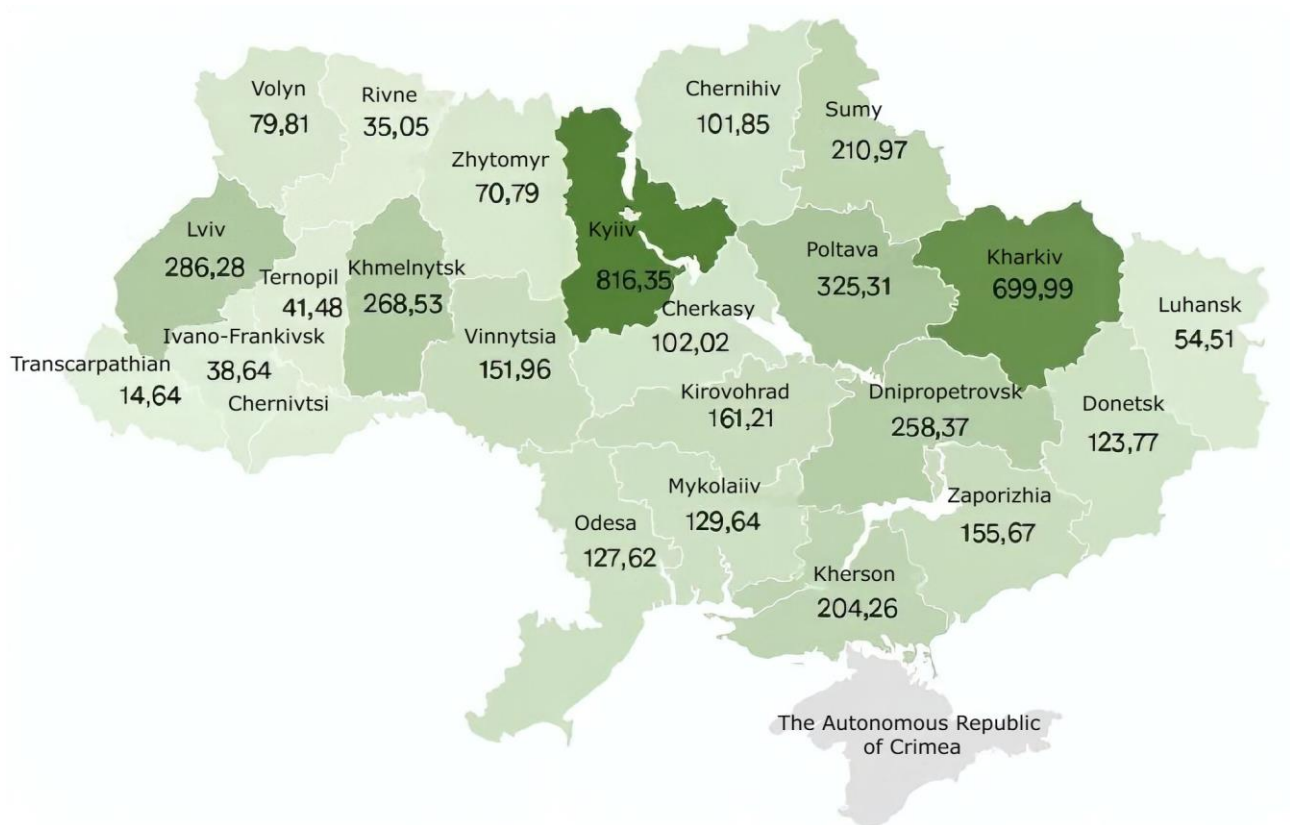
value is extremely large, despite the factor of land fertility, which does not play the main role in price formation. Because the value of land can be characterized not only as a monetary reflection plot as a commodity, and the personification of its value as the main capital, with comparing its supply and demand, a certain location, corresponding quantitative and qualitative characteristics.

The highest indicators of the average cost of 1 ha of alienated land are in Lviv, Kyiv and Ivano-Frankivsk regions (Fig. 3).



**Fig. 3. Average cost of 1 hectare of alienated land plots, thousand UAH (as of July 1, 2022)**

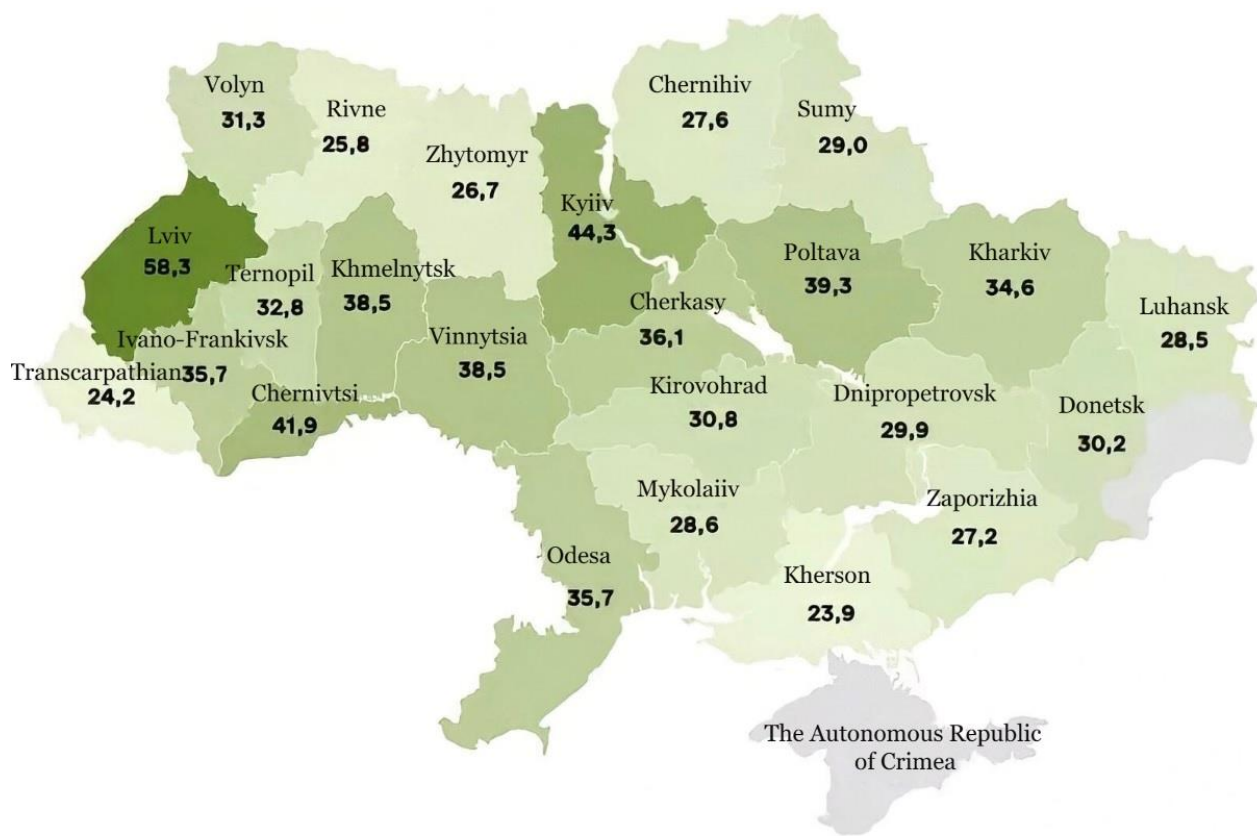
Concerning the value of agricultural land, Lviv region is the first with an indicator of 216.8 thousand UAH /hectare. Kyiv region comes in second with a price per hectare of 150.6 thousand UAH. Third-placed Ivano-Frankivsk region indicates 138.3 thousand UAH /ha. The areas of Kherson and Zaporizhzhia regions have the lowest indices, with the cost of 1 ha of alienated land which is 23.2 thousand UAH/ha. The record values of the cost are interpreted in terms of the prospect of changing the purpose of the plot for construction. After the introduction of legal entities to the market, the existence of vegetable gardens in the suburbs can be resold for a sizable profit [14].



**Fig. 4. The cost of alienated land plots, thousand UAH. (as of July 1, 2022) [13]**

According to the State Service of Ukraine on geodesy, cartography and cadastre data, Kyiv and Kharkiv regions are the leaders in terms of the value of alienated land plots (Fig. 4), where this amount is 816.35 thousand UAH and 699.99 thousand UAH respectively. The lowest indicators are in Transcarpathian region –14.64 thousand UAH and Rivne region 35.05 thousand UAH. Considering analytical data [13], during the operation of the open circulation of land on the territory of the state, plots with a target purpose for commercial agricultural production, as well as for personal peasant production, amounting to 59.74 thousand hectares of land, were most alienated. At the same time, the highest value of 1 hectare of land intended for commercial agricultural production is observed in Lviv region and amounts to UAH 58.3 thousand (Fig. 5). The weighted average cost on the territory of the entire state for the same target use is 32 857 UAH.





**Fig. 5. An average cost of 1 hectare of land for commercial agricultural production, thousand UAH (as of October 9, 2021) [13]**

Such numbers are constantly changing due to soil fertility, prospects for land use, availability or lack of technical capabilities for agricultural soil processing. For example, due to the lack of an irrigation system, especially in the South of Ukraine, it is impossible to predict the state of the fertility of the lands, evaluate their quality treatment or predict the future yield. In addition, the cost of agricultural land determines the absence of even the smallest infrastructure in rural areas to ensure the vital needs of the rural population.

Despite the fact that there are several issues now preventing the land market from being fully developed, one of the main ones is the lengthy and rather complicated legal sales contract drafting procedure.

Citizens' ownership rights to a vast amount of land have not yet been properly registered. A cadastral number must be assigned to a plot, which is a required component of the process of privatization, registration of property rights, and



contractual relationship settlement, carried out through the state registration of the land plot in the State Land Cadastre, which requires additional time and money for bringing all necessary documents into proper condition. It should be noted that if information about land plots the ownership of which was provided prior to 2004, is not included in the State Land Register, their state registration takes place on the basis of technical documents with land management concerning the establishment (restoration) of land at the request of their owners.

Inaccurate and inadequate information regarding land plots in the State Land Cadastre database is one of the major issues, which got worse with the opening of the land circulation market. In our state, it is typical that issues should be resolved by landowners rather than centrally and at the expense of necessary governmental funds [1, 4]. For example, in case of inconsistency in the coordinates of a plot that is privately owned by a citizen, the inaccuracy of its area or other errors become the owner's problem and are corrected at her/his expense.

Furthermore, a lot of agricultural properties are leased for a period of 10 to 15 years, which means that even when a buyer acquires ownership rights to such plots, she/he cannot use them for her/his own purposes until the lease agreements expire. According to part 4 of Article 32 of the Law of Ukraine "On Land Leasing" the transfer of ownership of a leased land plot to another person (including rules of succession), the reorganization of a legal entity-lessee is not a reason to change the conditions or terminate the contract, unless provided by the contract land lease. It should be noted that the person who acquired the ownership right to the land plot, which is under lease, within one month from the day of the state registration of the ownership right to it, is obliged to notify the lessee about it in the manner determined by Article 148-1 of the Land Code of Ukraine. At the same time, according to Article 9 of the Law "On Land Leasing", the lessee, who according to the law can own a leased land plot, has a priority right to acquire it in ownership during the sale of this land plot, if she/he pays the price at which it is sold. Considering the third part of Article 31 of the Law of Ukraine "On Land Leasing" the land lease agreement can be dissolved by mutual agreement. Moreover, at either party's request, the lease

agreement may be cancelled prematurely by court order in the manner prescribed by law.

Additionally, there are issues with the State Property Fund of Ukraine automatic evaluation of land, which in some circumstances, we observe on the outskirts of large cities, can several times exceed the real cost of land sales. In such a situation, according to the law, taxes must be paid on the percentage calculated according to such appraised value, and not on the actual sale price, because this can serve as an economically disadvantageous condition for both parties to the transaction. Therefore, the process of drawing up contracts is long-term, complex and expensive. In some places, the services of notaries for the registration of a small land plot can amount to half the cost of such an allotment, so such registration costs are too high for the parties.

In addition, transactions related to the purchase and sale of land on the market fell significantly. It was caused by the full-scale invasion of the Russian Federation into Ukraine and the introduction of martial law. Therefore, in the first months of the war, the circulation of land was completely stopped, access to the State Land Cadastre and the Register of Property Rights to immovable property was closed, bans were also introduced on the formation of land plots, free transfer, as well as conducting auctions for communal and state-owned agricultural land. Such management actions are implemented to prevent speculation, raiding, and off-market deals. This situation was helpful in the adaptation of land legislation to wartime situations. Nowadays, the incentive to sell or buy agricultural land differs greatly between the pre-war and post-war periods; as a result, the dynamics of land sales will alter significantly. Sellers understood that the value of their plot may improve over time, therefore they are not in a rush to sell it unless there is an urgent necessity.

Therefore, for the effective functioning of land circulation, it is necessary to determine promising ways of its improvement and development, namely:

- to improve the integrity, accessibility and interoperability of registers. Since the modern organizational system of land registration has a number of shortcomings, it lacks a holistic approach, the interaction of the State Register of Real Property

Rights and the State Land Cadastre for the exchange of data stored in the registers (electronic systems) of other state institutions. Therefore, such systems are crucial for the successful implementation of land reform. Since 2013, a dual system of cadastral registration has been operating in Ukraine: the State Land Cadastre, which contains records of land plots (including ownership and land use rights that arose before 2013), and the State Register of Real Property Rights, which began to accumulate information on the registration of plots only since 2013. Therefore, for the reliable protection of rights to land plots registered before 2013, it is vital to coordinate and transfer information from the State Register of Real Property Rights. This fact will allow notaries to receive up-to-date information from the State Register of Real Property Rights before concluding sales contracts;

- optimization and improvement of Land Valuation Methodology as one of the most essential steps of the Fund to improve the functioning of the national valuation market and its participants' activities;

- ensuring the monitoring of the land market to guarantee the transparency of land relations, as well as the availability of information about their condition and development;

- enhancing legal knowledge and providing citizens with legal assistance.

Taking into account the number of adopted laws and regulatory legal acts, today it is important to carry out educational activities among the population due to numerous changes in land legislation and their possible consequences for economic activity and everyday life of the public. It is significant to provide the population with consultations and legal support on land issues, in order to avoid reducing the positive effects of the land reform.

Solving the above-mentioned problems will contribute to the efficient and transparent functioning of agricultural land circulation, provide conditions for agricultural potential of the state and the development of the economy of rural areas, increase Ukrainian people's standards of living and well-being.

**Conclusions and perspectives.** The updated legislative regulation of the market circulation of agricultural land has a variety of favorable effects: ensuring that all

state citizens fully exercise their right to their agricultural land plots; determining an objective market price for agricultural land as a result of its circulation and increasing in land capitalization; attracting additional credit sources to the agricultural sector; providing conditions for an efficient redistribution of agricultural plots and rationalization of their use; ensuring unrestricted access to land-related procedures; and increasing the well-being of residents.

Since land reform is still in its early stages, for increasing the efficiency of its functioning, it is substantial to improve the integrity, accessibility and interoperability of data, which will allow notaries to receive up-to-date information before concluding sales contracts; optimization and improvement of Land Valuation Methodology as one of the most essential steps of the Fund to improve the functioning of the national valuation market and its participants' activities; ensuring the monitoring of the circulation of land plots and rights to them; enhancing legal knowledge and providing citizens with legal assistance in order to inform them about changes in land legislation and possible consequences for their economic activities on land; adaptation and improvement of land legislation for the further functioning and development of land circulation during the period of martial law.

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## **СУЧАСНИЙ СТАН ТА ПЕРСПЕКТИВИ ОБІГУ ЗЕМЕЛЬ В УКРАЇНІ**

**Анотація.** Розглянуто сучасний стан земель сільськогосподарського призначення в Україні після офіційного відкриття обігу землі та сформовано перспективні напрями його ефективного розвитку. Узагальнено фактори впливу на розвиток земельних відносин. Проаналізовано дані Державної служби України з питань геодезії, картографії та кадастру стосовно кількості укладених правочинів, а також площ земель, відносно яких укладали угоди за регіонами. Простежено динаміку зміни середньої вартості 1 га відчужених земельних ділянок в областях України. Визначено регіони-лідери за кількістю відчужених територій та за середньозваженою вартістю 1 га землі для ведення товарного сільськогосподарського виробництва, а також з'ясовано основні причини таких варіювань. Сформовано перспективні шляхи вдосконалення та розвитку ринкового обігу земель сільськогосподарського призначення, що передбачають: покращення цілісності, доступності та інтегрованості даних; оптимізацію та удосконалення Методики оцінки земель як один з найважливіших кроків Фонду держмайна України; забезпечення моніторингу обігу земельних ділянок та прав на них; збільшення

*правової грамотності і забезпечення юридичної підтримки громадян; адаптація та удосконалення земельного законодавства для подальшого функціонування та розвитку обігу земель у період дії воєнного стану. Адже, саме від ефективності ринкового обігу земель залежатиме зростання спроможності населення і територіальних громад, а також створення сприятливих умов для розвитку аграрного бізнесу на селі.*

**Ключові слова:** *обіг земель, земельна реформа, землі сільськогосподарського призначення, оренда землі, ринок землі.*