

**FOREIGN EXPERIENCE OF LEGAL REGULATION OF ORGANIC
FARMING
(COMPERATIVE LEGAL ASPECT)**

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The article is devoted to the issues about legal regulation of organic production in the different countries of the world, and also to the systematization and analysis of key positions of the European Union agrarian legislation. The analysis of norms of foreign states' national legislation is carried out, taking into account theoretical positions of Agrarian Law science. As a result, author suggests to improve the process of public disclosure of information about organic product, his producer and production.

Organic production, trade, subsidies, the European Union.

The following statistical data show the trends of organic farming development in the world and urgency of its legal regulation. On global level the area of organic cultivable lands has been enlarged by 0.5% or 200.000 ha as against 2011 year. The countries with the biggest amount of organic cultivable lands are Australia (12 million hectare), Argentina (3.6 million hectare) and the USA (2.2 million hectare). More than 320.000 (EU: more than 250.000) farms in Europe cultivated 11.2 million hectare by organic methods (EU: 10 million hectare) in 2012. 2.2% of the area of European cultivable lands is organic (EU: 5.4%). 30% of the world organic land is situated in Europe. Spain, Italy and Germany are the countries with the largest area of organic lands. 10% of organic cultivable lands belong to

seven European countries – Liechtenstein, Austria, Sweden, Switzerland, Estonia, the Czech Republic, and Latvia [1]. Therefore, experience has proven that practical problems conditioned by the state of organic farming and its objectives identify the topic of science and law research and orientation of development of the legislation.

The objective of this article is to determine the trends of development of the legislation of organic farming in the world. Considering that Ukraine follows the policy of European Integration the article is aimed at investigation of three main phases of making of organic legislation of the European Union (hereinafter – EU) and definition of its key provisions.

Certain aspects of international experience of the legal regulation of organic farming in legal literature have been examined by G.I. Balyuk, H.E. Bystrov, V.M. Ermolenko, V.I. Kurylom, E.L. Minina, V.L. Muntyan, O.O. Pohribny, V.I. Semchyk, A.H. Stativka, N.I. Titova, Y.S. Shemshuchenko and others. However we have to admit that there is no complex research of this problem in agrarian and law science regarding fast progress of current legislation on organic farming in the world. Particularly, the scientists, lawyers and agrarians do not pay enough attention to foreign experience in legal regulation of organic farming.

Organic farming has long-term goals devoted to economic, social and ecological aspects of agricultural development. It includes the issues on direct production, commodity turnover of the products, environment protection and health security of the consumers. Legal regulation of organic farming should promote free trade and prevent restrictions in commerce. Particularly, legal regime of trade defined in General Agreement on Tariffs and Trade (GATT) of 1994 [2], which is based on non-discrimination. According to the conclusion made by Benjamin N. Hutman: “Import from member states shall be accepted as favorable as “similar products” produced in any other state or internal market. In some disputable cases GATT committees on dispute settlement stated that the products are

considered similar if they have the same physical characteristics. On the other hand, the production and methods of food process can be omitted at products differentiation. For example, in the USA it is impossible to demand that all tuna which is sold in the country would be dolphin safe because the way of fishing does not affect the product itself" [3, p. 2374].

Taking into account the processes of Eurointegration in Ukraine which were launched after signing the Agreement on Partnership and Cooperation between Ukraine and Europe and the member states of 14 June 1994 [4], it is important to pay attention to the legislation of the European States. Thus, summing up the experience of legal regulation of free trade in agriculture in EU, O.L. Dubovik, L.Cremer, H.Lubbe-Volf wrote that: "The goal of free commodity turnover was mainly achieved at the beginning of 1993 including application of different principles which facilitate the liberation of commodity turnover, for instance Dassonville formula [5] – "every instrument which can actually and potentially, directly or indirectly prevent free commodity turnover in the Community" is forbidden in accordance with Article 30 DEU [6] If the rules of the European Community did not exist then in compliance with court practice of the Court member states would be entitled to issue national law acts on the protection of the environment, which restrict free commodity turnover according to Article 30, provided these rules were proportional and effective for both national and imported products [7]. At the same time in accordance with the Directive 98/34 [8] the member states of European Community had to inform the Commission and other states about every law project in order to check if it affected or restricted free commodity turnover" [9, p.239].

According to the world practice, the label of organic product does not meet the expectations of the consumers and such products shall be clear of chemicals, environmentally friendly and safe for small family farming.

Fifty seven percent of the consumers believe in ecological usefulness of organic production and forty-five believe that such production has better

nutritional value [31, p.434]. British consumers genuinely believe that organic means “natural” and “not intensively” produced [32, p.289]. As long as it is true that organic products can actually possess some of such qualities, the indices are not uncertain. **Organic foods can be neither environmentally friendly nor useful**, as many people believe. Many consumers believe that label of organic origin provides guarantee of the quality of the product whereas it actually informs about production processes. For example, most of consumers suppose that organic means clear of pesticides. In fact the organic products are manufactured without utilize of pesticides but after being transported by air or water many of them contain traces of pesticides when they reach the market [33].

While many consumers who buy organic products believe that they **support small family farms**, huge agrarian corporations such as ADM, General Mills, Dole, and Tyson take the leading positions in organic farming industry [34, p. 224-225]. Citing the research that says that “almost half of the consumers identified the support of small farmers as an integral feature of organic production” but given that a lot of organic products are not provided to the market by small producers, organic activists assure that these farms want to be less organic than smaller operators [33, p.643].

Therefore, in fact consumers do not receive all information about the state and location of the producer of organic products at the market. Their prospective on agricultural industry and production are formed under the pressure of advertising and propaganda of the activists of organic movement. In this case it would be useful to spread information about the producers of organic foods. Providing people with such information would contribute to the development of democratic processes in the world and enable the consumers to make the conscious choice.

Thus, as the foreign experience of legal regulation of organic production has shown, organic farming includes the legislation acts on health security, commerce, environment protection, humane treatment of

animals and ethical issues. Moreover, the settlement of the process of spreading information is more important than state intrusion into organic farming. In this area it would be possible to enhance the market and democratize agrarian policy by providing the consumers with the right of choosing a product and giving them information about the producer and its products. It would be useful to guarantee the consumers a right to influence on the policy of organic production by implementing the principles of freedom of speech.