

RESPONSIBILITY FOR VIOLATION IN LOAN COMMITMENTS IN THE AGRICULTURAL SECTOR

**P.V. SHVEDENKO, *graduate student,*
*NLUU J. Mudryj***

This paper is devoted to the category of «responsibility», a detailed comparative analysis of the legal definition of responsibilities in different fields of law, the results of which were asked to determine liability for breach of commitments to extend credit in the agricultural sector.

Responsibility, violation, credit obligations the agricultural sector.

Unconditional requirement of the legislation is to regulate the legal relationship, including credit in the agricultural sector, the main goal and purpose is to perform all the actors and other members of legal obligation. During the execution of credit obligations properly understood commit creditor and borrower actions to exercise the rights and duties arising from the loan obligations (guarantees, sureties, mortgages). Such actions must exactly match all the conditions of the contract or legal requirements, and in the absence of requirements usually imposed, including customary commercial traffic, Code of Conduct, etc. (c. 193 Civil Code of Ukraine, art. 526 CC of Ukraine). The main legal requirements and principles that should meet the obligation, in each case - the general rules of liability. Proper performance of the obligation - is implementation of commitments and competent parties subjective rights and obligations under the terms of the contract (agreement) on its subject, the prescribed time, in a place appropriate receive appropriate personal and credit relations in agriculture

and their guarantors, sureties or other legal representatives. Violation of these conditions or their failure is regarded as improper performance of any obligation, and the consequences of an offense that creates law enforcement relationship between the person who has violated certain terms of the obligation and the person who has the legal right to demand their implementation (the eligible). So the basis of the offense is liable for surely it conditions and characteristics as common to all offenses, and along with them some specific features for industry, for example, credit delinquency in the agricultural sector. These elements of the offense should be given at least a brief description.

In legal doctrine recognized the dominant doctrine according to which the offense as a condition for the onset of legal liability, including contractual includes as components: a) unlawful behavior (act or omission); b) adverse outcome of such behavior (the injury); c) a causal link between the unlawful conduct and the injury; d) wine offender and others. However, this general concept, there are exceptions. Yes, AP Tkachuk emphasizes that the only basis of a contractual liability to be considered a violation of ones. As for its other factors such as damage, causal link and wine, they can not be regarded as necessary conditions to form contractual liability and its basis, as their presence is not always required. Agree with these conclusions impossible. Economic offenses - unique, but at the same time complex act that involves a number of objective and subjective elements, without which qualify acts or omissions of a person as an offense can not. Regarding the 4th Conditions - guilt, in accordance with Part. 2 tbsp. 218 Civil Code of Ukraine economic relations participant is responsible for non-fulfillment or improper fulfillment of economic obligations or violations of economic activity, unless he proves that he taken all its best efforts to prevent economic crime. Thus, for the participants of economic relations, and these are the entities and relationships in the agricultural sector, CC defines guilt as one of the conditions for the onset of the economic and

legal responsibility. The set (composition) of these four conditions is an offense to form legally the grounds of economic and legal responsibility.

Therefore, the use of property accountability in the form of damages, you must have all four conditions, whereas the application of penalties (fines, penalties), operational and economic and administrative and economic sanctions rather only one of them - the fact that the economic offenses (without fault). If an entity (in this case, the borrower) proves that inadequate performance or failure was caused by force majeure, ie extraordinary and unavoidable circumstances, under the circumstances of economic activities is not liable. The main features of economic and legal responsibility and today in the legal literature and business law distinguish: a) entities are liable entity and in accordance with the credit relationship agricultural producers (enterprises, institutions and other organizations) - borrowers and lenders (banks and other institutions that are entitled to loans); b) in the prosecution refers to the acknowledgment of the negative effects of material nature; c) it takes the form of a system of sanctions under commercial and in violation of loan commitments and special (credit) legislation; d) as opposed to administrative, criminal and liability for labor law, economic and legal and can occur regardless of the fault of the person who violated the obligation. Much attention in the study of these issues has focused in his dissertation and monograph Samson JA Analyzed features and findings of scientists reflected in existing legislation, particularly in art. 216 CC of Ukraine, according to which the participants of economic relations are economic and legal responsibility for offenses in the field of management through the use of economic sanctions to offenders on the grounds and in the manner prescribed by the Civil Code, applicable laws and treaties. According to Art. 217 Civil economic sanctions recognized measure the impact on the offender in the area of management, as a result of which for him come the negative economic and legal implications. Thus the implementation of

economic offenses in the course of the loan agreement in the agricultural sector entails the use of measures of responsibility - economic sanctions, the grounds and procedure for application are determined by the Commercial Code and other laws regulating credit and legal conditions guarantee loan agreements (contracts) entered into by the parties and guarantors and sureties. Most all economic sanctions that entail for offenders negative economic consequences that are aimed at reducing its property base as damages. As a result, the above stated should conclude that economic liability is a mechanism for shifting the negative consequences of one party economic relations on the other. Thereby it also differs from the economic responsibility. Economic responsibility - a commercial entity zaznannya negative economic consequences not someone else's, and his ineffective (inaction) due to reflection of its consequences on the property sector. Economic and legal responsibility, which is used in violation of commitments to extend credit in the agricultural sector is different from general liability following features: a) it is subject contracting the loan agreement (Agreement), concluded in the agricultural sector; b) the parties to the credit agreement is not any business entities, and others: lender - a bank or other institution (organization) that is authorized to provide loan and the borrower - an exclusively agricultural sector), the subject of the contract - in basically sums. A minor percentage of the total mass of the loan agreements and takes trade credit provided in the form of property, including leasing; d) loans granted in the agricultural sector are targeted; d) applying the liability for improper performance or breach of loan agreements in the agricultural sector borrower more than in other areas of business loans is exempt from liability for reasons of force majeure and unavoidable circumstances that did not allow him to fulfill credit obligations. So when talking about government loans are often used debt restructuring; e) the vast majority of credit agreements in the agricultural sector concluded using contract enforcement (warranty,

guarantee, pledge and holding the), which affect not only the subjective part (structure) of responsibility, but also on the nature and content of the responsibility; g) the extent of liability that apply in the case of improper performance of loan commitments in the agricultural sector are different from general liability and its form. Not apply its forms, such as penalties (fines, penalties); c) the main types of liability are collecting interest on the loan amount and injury associated with delay or failure to perform obligations due to losses. Foregoing gives reason to conclude that the responsibility for violation of loan commitments in the agricultural sector should be understood: regulated by public law relationship between creditor - a bank, financial institution or other entity empowered to grant loans and borrower - the subject agricultural sector (the guarantor, the guarantor) are shown in the following unfavorable effects of material nature (to pay damages and to pay interest for the entire time the use of credit), which did not exist before the offense.