

## THE IMPORTANCE OF LEASING IN AGRICULTURE AND ITS CONSOLIDATION IN THE LEGISLATION OF UKRAINE

**A.S. OSADKO, *postgraduate student*<sup>1</sup>,  
National University of «Law Academy of Ukraine named after Yaroslav  
the Wise»**

*We investigate some issues important asset in agriculture and its consolidation in the legislation of Ukraine, as well as an analysis of the definition of leasing in accordance with international legal norms.*

***Agricultural leasing, agriculture, agro-industrial complex.***

At present Theme leasing becomes significant relevance. The explanation is simple – as a suitable tool for leasing investment policy is important for the development of production during the crisis in agriculture. During times of economic turmoil, significant unemployment, little purchasing power this activity, due to its special economic nature, can significantly improve the development of the agricultural sector and internationally - to create and build new relationships with foreign investors. There are several reasons for the rapid and widespread leasing business practices: they are significant benefits that members have the business entity turnover and encouragement from the government, which is considering leasing as a means to promote scientific and technological progress, which is used in agricultural production.

Therefore, great importance has leased for agricultural development. Since the current market conditions logistical base in agricultural production requires a certain innovation strategy, ensuring its individual technical means impossible without the introduction of leasing.

The study of some of the problems involved in leasing scientists from different areas of law, such as A. Barabash, Vnukovo N., I. Horislavska, E.E. Ishchenko, M. Pasternak, B. Reznik, A.M. Stativka, D. Sichko, A.L. Smirnov, A. Trofimov, A. Yanovsky, I. Yakubivskoho et al.

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<sup>1</sup> Thesis supervisor– Doctor of Legal sciences, Professor A.M. Stativka

The aim of the study is to find ways to improve the existing definition of leasing in the theory of agrarian law and in national legislation that will improve the regulation of leasing with agricultural producers.

Note that there is no consensus and understanding of the concept of leasing. Experts believe that leasing is somewhat a cross between loans and leases, and therefore its legal nature associated with both the loan and the rental.

It is advisable to pay attention to the fact that in the world as there is no single definition of «lease». Therefore, some scholars identify it with the lease, the other – from trade credit, and others – from bank loans [2].

Repeated attempts were made to define the different leasing associations, international organizations, the Conference on lease. For example, the interpretation of the European Federation of National Associations leasing equipment (Euroleague), the definition of «lease» is associated with the lease of the plant, manufactured goods, machinery, real estate for use in industrial purposes tenant, while the goods are purchased by the lessor, and it reserves the right to property (for the duration of the lease agreement) [1, p. 111].

It should be noted that for the first time at an international level the definition of «lease» was enshrined in the provisions of the UNIDROIT Convention «on International Financial Leasing». In accordance with this Convention, financial leasing agreement has the following features: a) the lessee determines the equipment and selects the supplier despite primarily on the experience and judgment of the lessor, and b) acquire equipment lessor in connection with the lease agreement, which entered into or to be entered into between the lessor and lessee c) periodic payments payable under a lease agreement, calculated, particularly taking into account depreciation or a substantial part of the cost of equipment [5, p. 110–119].

Other international legal source, which is the Convention on Interstate Leasing, Art. 1 contains the definitions of «lease agreement (lease contract)" and "lease (finance lease)».

According to the said Convention leasing – the kind of investment and business activities related with the acquisition of property and transfer it for use under the contract state through its competent authorities, person or entity for a fixed period for profit (income) and achieve social taking into account the effect of amortization of the leased asset with the lessor, vendor, lessee and other members of the leasing project [4, p. 34–35].

Finally, another definition of lease is set out in point «q» c. 1 UNIDROIT Convention «On international warranty in relation to the

movement of equipment», whereby a leasing contract – a contract in which one person (the lessor) grants to another person (the lessee) the right of ownership and management of the facility (with or without its redemption) for rent or other charge [6, p. 115].

All these definition leasing receiving international legal unification became the basis for future development of legislation on leasing countries that previously had no special regulation of these relations.

In particular, the laws of Ukraine (Article 292 of the Commercial Code of Ukraine) defines leasing as an economic activity aimed at investing their own or borrowed funds, which is to provide for the lease agreement by one party (the lessor) for exclusive use to the other party (the lessee) for a specified period property owned by the lessor or acquired by him in the property (economic management) for authorization or consent of the lessee in the relevant supplier (seller) of the property, subject to payment of regular leasing payments [7].

In addition, it should be noted that today the official definition of fixed asset Civil Code of Ukraine (Part 1 of Art. 806 of the Civil Code of Ukraine) [9], the Internal Revenue Code (Section 14.1.97 century. Revenue Code 14) [8] and in Part 1 of Article 1 of the Law of Ukraine dated 16 January 2004 «On Financial Leasing» [10]. Summarizing all these provisions can be defined common characteristics in determining the lease is in particular: a) at the time of signing the lease the lessor is not the owner of the leased asset, and b) in accordance with the contract the lessor undertakes to purchase the leased asset at fixed seller in) selection of vehicles leased by arrangement made between the lessor and the lessee, d) Lease of possession and use for a fee determined and defined period. However, there are some differences regarding the following issues: setting the amount of the lease payments, limits the use of the term, on the right and the obligation to repurchase the lessee leased asset.

The above shows that at present the development of leasing is not an exaggerated importance to agricultural development. All this required the improvement of current legislation, which regulates leasing relationships with agricultural producers, for lease in the agricultural sector will in a short time to upgrade to the latest world standards of domestic agriculture.

As noted above, leasing – one of the most essential ways to logistics and production rates are accelerator agricultural producers of agricultural products, a means of promoting the economic development of agricultural production.

Agriculture can not develop without leasing as a source of financing investment. After all agricultural producers leasing – is the accelerator production rates, updated equipment and technology. Equipment manufacturers, in turn, due to the lease can expand their markets, banking institutions are using leasing can increase their profits. This is because the leasing relationship, unlike bank financial support aimed at solving the problem of lack of capital and problems of liquidation. [5] As agriculture needs more support from the state, one of the leading types of support are leased on favorable terms.

It should be noted that financial leasing in agriculture is profitable form of all participants in this type of investment – and agricultural producers, and machine builders. This follows the national legislation adopted in recent years, such as item 6 Part 3 of Art. 8 of the Law of Ukraine 07.02.2002. № 3023-III «On the promotion of the national machinery for agriculture» [11] suggests that one of the main directions of state support for the purchase of machinery is due to budget domestic machinery and equipment for agriculture, followed by the implementation of its agricultural commodity and food processing industry under financial leasing. In particular, Art. 9 of the Law of Ukraine «On the farm» states that the Cabinet of Ministers of Ukraine annually in the State Budget of Ukraine provides funds to support farmers. One manifestation of this support is to introduce leasing of agricultural machinery. According to the Law of Ukraine «On State Budget for 2011» from the budget were given 531 416.5 thousand on measures for financial support entities agriculture through the mechanism of reduction of loans and lease payments of compensation. [12] In accordance with the approved State program of development of Ukrainian village in 2015 one of the most important areas of development and reproduction of logistics is to improve the system of leasing agricultural machinery and equipment, expansion of public support leasing companies, leasing activation of other financial institutions and engineering enterprises, creating favorable conditions for a wide attracting domestic and foreign investment [13].

For agricultural producers finance lease gives the possibility to save money to invest in other activities more efficient and / or purchase equipment, the cost of which exceeds the annual budget.

Advantages of financial leasing in agriculture are in the feasibility and profitability of all its members, namely: agricultural producers, Engineering and budget. For example, agricultural workers, as members of leasing, financial leasing is advantageous that saves money for investment and

opportunity to purchase equipment, the cost of which often exceeds the annual financial income of agricultural producers. In addition, machine builders Financial Leasing helps increase production of agricultural machinery. And for budget finance leases affect the increase in revenues against expenditures. All this affects the increase in tax revenues from domestic engineering companies.

The above description of leasing allows to state that the term «lease» as enshrined in the Civil Code and the Commercial Code and other legislative acts, indicating that unmeasured characteristics of agriculture and the conditions in which they operate agricultural producers. All it requires to develop and adopt the Law «On Financial Leasing with agricultural producers». Such a law would consider the most important and necessary features of a financial asset specific to agricultural production. This will be the basis for its effective application, create a favorable environment for the development and implementation of leasing in Ukraine's agriculture.

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