

TO THE INVENTORY OF UKRAINE'S DEFENSE LANDS

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Abstract. The article analyzes the inventory of the defense lands of Ukraine, which involves establishing the location of objects and their boundaries, because the implementation at the proper level of governmental functions of the state in the planning, monitoring and control over the use and protection of land depends on the availability of complete, objective and sufficient information about them.

The offenses faced by land users of such land plots, in particular, are unauthorized occupation of land and unauthorized construction, seizure of land through registration of ownership of real estate objects, reduction of rent for land etc.

The procedure of conducting land inventory, which regulates the requirements for carrying out land inventory during the implementation of land management and preparation of technical documentation, in particular, the Decree of the Cabinet of Ministers of Ukraine No. 476 «On Approval of the Procedure for Land Inventory and Recognition Of the Cabinet of Ministers of Ukraine» of June 5, 2019.

The work done on the inventory of land and real estate of the Armed Forces of Ukraine for the period 2014-2019 has been evaluated.

Positive aspects of correction and filling of the real estate database started three years ago in the Ministry of Defense of Ukraine for creation of automated workplaces of managers to support effective management of real estate and infrastructure network were noted, since the availability of systematic information about state-owned and owned land plots in the operational management of the Ministry of Defense of Ukraine depends on Ukraine's fulfillment of international obligations, which is an indisputable argument for the state land inventory defense promptly.

Keywords: inventory, land, property, defense lands, Ukrainian Armed Forces, land management projects.

Introduction.

The land is the most attractive target for malpractice, corruption and bribery. Such offenses have become systemic in nature, creating serious obstacles to the

development of a potentially powerful sector of Ukraine's economy, threatening its national security.

Building a modern and powerful army that will meet the challenges that currently exist in Ukraine requires re-

sources: not only a resource of political will, funding, updating of regulatory and logistical bases, but also the corresponding areas of defense lands. Land inventory is one of the main elements of the land management system, which provides the information base of the State Land Cadastre and is the basis for managerial decisions in the field of land relations regulation.

Given the dynamic of socio-political as well as regulatory and legal changes in Ukraine, there is no clear view of the essence of land inventory as a form of obtaining and correcting information on the status of land tenure and land use, which is added to the state land cadastre of Ukraine for its further assessment and making management decisions. [2, p.1]

In our work, we pay attention to the defense lands as a separate category of lands in Ukraine. Despite the special regime of use of these lands, land users of such land are faced with typical offenses:

- underestimation of land rent by officials;
- improper performance of their duties by officials of the authorities and management when given the necessary approvals and permits;
- seizure of land through registration of ownership of real estate (more often - with hostels provided for long-term lease to defense agencies) located on the land;
- failure to comply with the requirements of the legislation on the allocation of competences of local councils and state administrations when seizing land plots of defense lands for construction;
- unauthorized occupation of land and unauthorized construction.

The state land cadastre is characterized by the lack of authenticity and completeness of existing information on

defense lands as land with special use regime, as well as the lack of necessary registration data regarding restrictions on the use of defense lands. Misdemeanors in the use of land belonging to the defense lands also contributes to the improper keeping of their records: the discrepancy between the data of the lands of the defense of the Ministry of Defense of Ukraine and the State Service of Ukraine for Geodesy, Cartography and Cadastre. As of September 1, 2018 according to the State Service of Ukraine for Geodesy, Cartography and Cadastre, the total area of the defense lands is 130,000 hectares less than stated by the Ministry of Defense of Ukraine. [2, p.1] The lack of complete and objective information from the Ministry of Defense concerning the state of the defense lands makes it impossible to perform at the proper level the administrative functions of planning, monitoring and controlling their use for the defense purposes of the state.

Researches on the inventory of defense lands in Ukraine are being carried out by Ukrainian scientists, in particular: I. Bazarko, V. Bilenko, O. Dorosh, T. Lyshnevts, A. Martin, A. Miroshnichenko and others. [2,3,4] According to A. Martin, one of the critical obstacles to Ukraine's acquisition and implementation of the NATO Membership Action Plan (NATO MAP) is likely to be the implementation of the so-called «Tallinn Condition», an immovable defense property, to identify all necessary to ensure national defense of military real estate. [3, p.1] As A. Miroshnichenko emphasizes, the «Tallinn criterion» for NATO membership requires the registration of military property by the state and not by specific military units. [4, p.2]

The purpose of the study is to analyze the inventory of defense lands in Ukraine.

Results and discussion.

Ukraine has approved the Procedure for Land Inventory, which regulates the requirements for land inventory in the course of land management and preparation of technical documentation according to its results. The relevant Resolution of the Cabinet of Ministers of Ukraine No. 476 «On Approving the Procedure for Holding Land Inventory and Recognition of Some Decisions of the Cabinet of Ministers of Ukraine» has expired on June 5, 2019 [5, p. 1-2], which is defined by:

- ensures that the State Land Inventory is carried out by the State Service of Ukraine for Geodesy, Cartography and Cadastre or its territorial body by adopting the Order on the State Land Inventory;
- ordering technical documentation can be provided by public authorities, local governments, landowners and land users;
- consolidated inventory plan is drawn up when the objects of inventory are the territory of Ukraine, the territory of administrative-territorial units or their parts, an array of agricultural land. It is not drawn up in the case of inventory of a separate land plot;
- lists of land plots are separately drawn up:
 - provided for ownership (use) with the assignment of cadastral numbers;
 - given to the property (use) without assigning cadastral numbers;
 - not granted for ownership and use by land;
 - used without documents certifying their rights to them;
 - not used for their intended purpose;
 - unallocated, unclaimed land shares;
 - extinct heritage.

For the period 2014-2019, the Minis-

try of Defense of Ukraine renewed the right to use land plots with a total area of 51260 hectares. In 2018, 58 court decisions were adopted in favor of the Ministry of Defense of Ukraine, and the right to use the defense lands of 20800 hectares was restored. In 2019 - 22 court decisions were adopted, the right to use land plots of 11640 hectares was renewed. Currently, the area of defense land is 518600 hectares. The control of the management includes facts of unauthorized occupation and wrongful seizure of parcels of land with an area of 20340 hectares [1, p. 1]

In order to strengthen the control over the state of protection of interests of the Ministry of Defense of Ukraine and according to the Instruction of land account in the bodies of the apartment-service service of the Armed Forces of Ukraine, the order of actions of the heads of military units and state-owned enterprises of the Ministry of Defense of Ukraine, heads of apartment-operational departments and apartment-operational parts identification of unauthorized occupation, unauthorized seizure by outsiders (on the basis of court decisions or decisions of local self-government bodies) of land or immovable defense property.

In cases of unauthorized occupation of land and real estate, law enforcement agencies conduct pre-trial investigations. Currently, the work of the housing-operating bodies, the military prosecutor's office, the military legal service, the Legal Department of the Ministry of Defense on the return of illegally seized land to the defense lands is ongoing. Military representatives of the Ministry of Defense of Ukraine, together with the bodies of the military prosecutor's office, represent the interests of the department in courts of various instances. [1, p.1]

For example, large areas of land in the Rivne region, which are on the register of military units, where the military units were previously located, and subsequently disbanded and transferred to the balance of local communities. However, according to the documents, the land under the infrastructure was left behind by military units and this makes it impossible to manage the objects on it. Many sites, in particular: Tarakaniv Fort, a hostel in Tucin, the village of Plosko Ostroh District, where communal establishments located on lands belonging to the Armed Forces of Ukraine are located. At present, the issue of the transfer of 6.4 hectares of land on which the Tarakan Fort is located (historical monument and adjoining territory is now neglected) remains unresolved.

Also relevant is the creation of new military units, the resumption of housing projects for military personnel, the construction of arsenals, the modernization of landfills, and the results of the inventory revealed that a significant part of the defense and military real estate land has moved to the commercial sphere and other areas far from defense. The reduction of the real estate of the defense sphere continued until the Russian aggression began. Every year the army was reduced, and the military towns were gradually being released from the jurisdiction of the Ministry of Defense of Ukraine. As of 2014, more than 420 military sites (approximately 7,500 buildings and structures located in 36,000 hectares) were released and are not planned to be used further. Taking advantage of lack of proper controls, chronic under-financing and lack of protection, local authorities made unjustified decisions that led to the seizure of defense lands and military real estate. During 2015-2017, 10,500 hectares of

land were returned to the Ministry of Defense of Ukraine. And in 2018-2019, a record high, about 25,000 hectares of illegally dispossessed land were recovered (as of early 2018, nearly 50,000 hectares of self-seized defense lands were counted), in particular, such significant sites as the aviation site in the village of Povorsk Volyn region, Tarutyn and Bolgrad military-military training grounds of Odessa region and others. Also, 178 buildings and structures were returned, in particular - in Dnipro - 44, Kharkiv - 20, Kryvyi Rih - 1. [1, p. 2]

Conclusions.

In the course of the inventory and in the preparation of the technical documentation, the lands of the defense must be issued to the state, without giving the direct users (military units) land plots any real rights. It is also imperative that the issue of transformation of the right of permanent use of the land into ownership is made with the corresponding amendments to the Land Code, the Civil Code, the Commercial Code and other legislative acts. Such measures will solve a considerable number of problems (including corruption) not only in the field of defense.

The issue of inventory of defense lands and, in general, the solution of the issue of military real estate should be addressed as soon as possible, as the delay will be one of the obstacles to Ukraine becoming a member of the North Atlantic Treaty Organization.

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ДО ПИТАННЯ ІНВЕНТАРИЗАЦІЇ ЗЕМЕЛЬ
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Анотація. У статті проаналізовано проведення інвентаризації земель оборони України, яка передбачає встановлення місця розташування об'єктів та їхніх меж, адже виконання на належному рівні управлінських функцій держави щодо

планування, моніторингу і контролю за використанням та охороною земель залежить від наявної повної, об'єктивної й достатньої інформації щодо них.

Встановлені правопорушення з якими стикаються землекористувачі таких земельних ділянок, зокрема, це самовільне зайняття земельних ділянок і самовільне будівництво, заволодіння землями шляхом оформлення права власності на об'єкти нерухомості, заниження орендної плати за землю тощо.

Досліджено Порядок проведення інвентаризації земель, який регламентує вимоги до проведення інвентаризації земель під час здійснення землеустрою та складання за її результатами технічної документації, зокрема, Постанову Кабінету Міністрів України № 476 «Про затвердження Порядку проведення інвентаризації земель та визнання такими, що втратили чинність, деяких постанов Кабінету Міністрів України» від 5 червня 2019 року.

Оцінено проведену роботу щодо інвентаризації земель і об'єктів нерухомості Збройних сил України за період 2014-2019 років.

Відзначено позитивні аспекти щодо корегування та наповнення започаткованої три роки тому в Міністерстві оборони України бази даних нерухомого майна для створення автоматизованих робочих місць керівників для підтримки ефективного управління нерухомим майном і мережею інфраструктури, адже від наявності систематизованої інформації про земельні ділянки, що є власністю держави та перебувають в оперативному управлінні Міністерства оборони України, залежить виконання Україною міжнародних зобов'язань, що є незаперечним аргументом на користь проведення державної інвентаризації земель оборони в найкоротші терміни.

Ключові слова: інвентаризація, земельні ділянки, майно, землі оборони, Збройні сили України, проекти землеустрою.

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К ВОПРОСУ ИНВЕНТАРИЗАЦИИ ЗЕМЕЛЬ
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Аннотация. В статье проанализированы проведения инвентаризации земель обороны Украины, которая предусматривает установление местоположение объектов и их границ, ведь выполнение на должном уровне управленческих функций государства по планированию, мониторингу и контролю за использованием и охраной земель зависит от имеющейся полной, объективной и достаточной информации о них.

Установленные правонарушения с которыми сталкиваются землепользователи таких земельных участков, в частности, это самовольное занятие земельных участков и самовольное строительство, завладение землями путем оформления права собственности на объекты недвижимости, занижение арендной платы за землю и тому подобное.

Исследована Порядок проведения инвентаризации земель, регламентирующий требования к проведению инвентаризации земель при осуществлении землеустройства и составления по ее результатам технической документации, в частности,

Постановление Кабинета Министров Украины № 476 «Об утверждении Порядка проведения инвентаризации земель и признании утратившими силу некоторых постановлений Кабинета Министров Украины» от 5 июня 2019 года.

Оценен проведенную работу по инвентаризации земель и объектов недвижимости Вооруженных сил Украины за период 2014-2019 годов.

Отмечены положительные аспекты по корректировке и наполнения начатой три года назад в Министерстве обороны Украины базы данных недвижимого имущества для создания автоматизированных рабочих мест руководителей для поддержки эффективного управления недвижимым имуществом и сетью инфраструктуры, ведь от наличия систематизированной информации о земельных участках, являющихся собственностью государства и находятся в оперативном управлении Министерства обороны Украины, зависит выполнение Украиной международных обязательств, является неоспоримым аргументом в ко исть проведения государственной инвентаризации земель обороны в кратчайшие сроки.

Ключевые слова: инвентаризация, земельные участки, имущество, земли обороны, Вооруженные силы Украины, проекты землеустройства.