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**PROBLEMS IN CONDUCTING LAND MANAGEMENT
IN AGRICULTURAL ENTERPRISES
IN THE PROCESS OF LAND REFORM**

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Annotation. *The analysis of the land management of agrarian enterprises in the process of land reform is carried out. A number of problems, related to the imperfection of the institutional environment of the land management and the land use of modern agro-formations, have been identified; incompleteness of economic and legal ownership relations between land owners and agricultural structures, delay in the development and adoption of normative legal acts, required for further reformation of land relations, and catastrophic reduction of the volume of land management works aimed at ensuring rational land use are among them.*

It is found that the most important of these problems are the absence of a scientifically substantiated and legislatively established Strategy for the formation of a rational system of land tenure and land use aimed at creating a favorable environment for sustainable rural development, the lack of the effective functioning

of agricultural enterprises, and an increasing role of land management in ensuring environmentally safe use of land resources in agricultural production.

The solution of the above problems implies improvement of the legal framework for regulation of land relations, in particular, regarding the legislative definition of the administrative status of the united territorial communities; demarcation of state and communal property lands; consolidation and prevention of further subdivision of agricultural land allocated for agricultural production. The necessity of the development and adoption of the National Program of Land Use and Protection, as well as the necessity of amending the Land Code of Ukraine and the Laws of Ukraine “On Land Management” and “On Land Protection” is substantiated.

Keywords: *agricultural enterprises, land management, rational land use, efficiency, land ownership.*

Actuality. In the process of the land reform in Ukraine the unconditional state monopoly of land ownership was abolished, a system of a paid land use was formed, different forms of ownership and use of land were established. However, the lack of proper coordination and control by the state over the course of the reform and the untimely resolution of a number of organizational and legal issues have constantly hindered the implementation of reform measures. Particularly acute problems of the transformation period, related to ensuring the sustainability of agricultural land use, are due to the increase in land parceling, due to the unbalanced of land use structure, due to the lack of funding for the land protection measures, and due to the loss of sustainability of the agricultural enterprises.

The only scientifically substantiated way of solving these problems is the land management – a system of socio-economic and environmental measures aimed at regulating the land relations and rational organization of the territory of administrative-territorial units, as well as economic entities under the influence of the social and industrial relations and the development of productive forces. [9]. The land management is intended to ensure the formation of a rational system of

land tenure and land use, the organization of the territory of agricultural enterprises, institutions and organizations with the aim to create spatial conditions for the ecological and economic optimization of the use and protection of agricultural land, the introduction of progressive forms of land use management, deployment, cultivation areas, crop rotation systems, etc.

However, in the process of reforming land relations in the agrarian sector of the economy, a number of problems, connected to the implementation of the land management in agricultural enterprises with the imperfection of the respective institutional environment, arose. This became particularly acute in the conditions of the decentralization of power and of the formation of a new administrative and territorial structure of the country. Therefore, researches on the improvement of the regulatory support of land management and land use of agricultural enterprises at the current stage of land relations reform are becoming urgent.

Analysis of the recent researches and publications. The works of M.Bogira, D.Dobryak, Y.Dorosh, O.Dorosh, L. Novakovsky, A. Sokhnych, A.Tretyak, M. Khvesyk and of many other scientists were devoted to the problems of land management during the land relations reform. In particular, it is revealed that the land management of agricultural enterprises should be based on an environmentally balanced approach to the use of land resources, which allows to ensure the reproduction of soil fertility and the increase the productivity of agricultural land [1].

In order to improve land use efficiency, problems related to the development of the land ownership forms should be solved; furthermore, the improvement of land relations through the formation of mortgage and leasing institutions, the taxation system reform by the establishment of a single land tax, the re-equipment of material and technical base, and the development of the social sphere [2] issues should be addressed as well. In the Western European countries, several measures were taken for the further development of the institute of private land ownership and for the elimination of the problems connected with the creation of a social layer of farmers. Among these measures were: the destruction of the large land

holdings; the securing of the social protection and of the independence for farmers in the issues of land disposals; the provision of farmers with the opportunity to obtain short and long-term loans, including secured by the owned land [14].

At the same time, in spite of the considerable volumes of the conducted researches, issues related to the improvement of the institutional environment of land management and land use of market-type agro-formations in the conditions of decentralization of power need a more detailed study.

The purpose of the study is to systematize the problems of land management of agricultural enterprises at the appropriate levels as defined by Article 3 of the Law of Ukraine “On Land Management”, and to substantiate the ways of their solutions at the current stage of land relations reform in Ukraine.

Results of the studies and their discussion. The key problem for the conducting the land management of agricultural enterprises at the national level in the process of land reform is the lack of a legally mandated strategy for the formation of a rational system of land tenure and land use. Up until now, the National Program of Land Use and Protection has not been approved by the Verkhovna Rada of Ukraine (the respective bill under No. 3310 of October 23rd, 2008 was withdrawn from consideration on July 7, 2011) [8]. In the absence of such a program, it is impossible to ensure a rational division of the land fund between the branches of the national economy, to find the optimal ratio between agricultural lands, nature conservation lands and lands of forest and water funds, and to create spatial conditions for the functioning of the market-type agro-formations, etc. [6, Art. 177, 11, Art. 24]. Furthermore, the Final Provisions of the Law of Ukraine “On Land Protection” (No. 962-IY of 19.06.2003) provides for the drafting and the submission of a bill on the National Program of Land Use and Protection on approval to the Verkhovna Rada of Ukraine; therefore, the deadline for the implementation of this decision is already surpassed by a decade and a half.

The strategy of forming a rational system of land tenure and land use in the agricultural sphere should ensure: the improvement of lease land relations, the

creation of favorable environment for sustainable development of rural territories, the strengthening of the system of guaranteeing land ownership and providing conditions for its efficient economic use, the increase of the role of land management in ensuring environmentally safe use of land resources and their protection as a major national wealth. For this, the strategy of forming a rational system of land tenure and land use in the agricultural sphere should be based on the following principles [15]:

- complexity, which implies the harmonization of environmental and socio-economic factors;
- consistency as a basis for identifying the interconnections and interdependencies between the structural elements of the managed system “society – land resources – production”;
- functionality as a factor that determines the interconnection of management decisions in the system of land relations development;
- manageability, the main condition of which is the purposeful regulation of the processes of land tenure and land use;
- “stage-by-stage” approach that promotes the implementation of the program principles of sustainable development of land relations.

In case of implementation of this Strategy, it is envisaged: in the economic sphere – to increase the efficiency of agricultural production through the rational use of the potential of soil cover of agricultural landscapes; in the environmental field – compliance with environmental safety requirements, harmonization of the agrosphere with the natural environment; in the social sphere – the creation and maintenance of a complete living environment in rural areas.

The problems of land management of agricultural enterprises at the regional level include the incompleteness of the process of establishing (changing) boundaries of administrative and territorial entities, the main purpose of which is to create a complete living environment and favorable conditions for their territorial development, to ensure efficient use of the potential of territories with the

conservation of their natural landscapes and their historical–cultural value[5, Art. 69].

The scientifically justified solution to this issue should be implemented on the basis of the State Land Cadastre system (SLC). It is widely recognized that a well-organized system of land registration provides solutions to both economic and social problems, contributes to the development of the land market, improves the efficiency of the land use, protects the real estate rights, etc. However, according to the State Land Cadastre, as of Jul 1st, 2018, the SLC has the submitted information about officially established administrative boundaries of 803 settlements, which is only 2.8% of their total [7]. The reasons for such a low level of registration of boundaries of settlements in SLC include: 1) a failure to be provided with the relevant information from local self-government bodies (almost $\frac{3}{4}$ settlements already have defined boundaries, but the information about them has not yet been received by SLC); 2) the majority of the administrative-territorial units have several variants of formally established boundaries, but none of them has developed technical documentation and is included in the SLC.

This all causes uncertainty in the land management power authorities, errors in accounting and statistics, and creates the basis for conflicts. The process of defining the boundaries of administrative-territorial units is accompanied by the administrative reform problems, as village councils are in the process of merging into territorial communities, and accordingly their number is being reduced. In addition, the absence of a legally-defined administrative status for the united territorial communities (UTCs) makes it impossible to register their boundaries[4, Art. 24-25].

By the efforts of local authorities and land management service, a territorial basis for the future market-based economic structures (centered around private ownership of land and other means of production, as well as around personal interest in increasing economic efficiency) was established in the agricultural sphere of the country. However, in the process of redistribution and privatization of land, there were the negative processes associated with the fragmentation of

agricultural land, the loss of borders and elements of contouring and reclamation of the territory. It is therefore advisable to prevent the fragmentation of land at the legislative level, as it may become even more fragmented in the process of its inheritance by a large number of heirs. The exact way to avoid it is the legal restrictions so that the state is able to guarantee a minimum size of land that is not subject to division. Also, in the case of the purchase and sale of agricultural land (in the conditions of a civilized market), due to the legal prevailing right, the active part of the farmers could increase the area of their land. This will definitely lead to the increase in the productivity of agricultural production, to the more efficient use of labor, techniques, to the introduction of advanced technologies, to the increase in incomes and to the poverty alleviation in rural areas [16].

The formation of the single arrays of land belonging to the owners of land shares (units), who have united for further leasing of this land for rent on more favorable conditions, can be considered as a promising measure for the unification of agricultural land. Before forming these single arrays of agricultural land, it is necessary to conduct natural-agricultural, ecological-economic, anti-erosion and other types of zoning of land. The practical implementation of these measures will facilitate the free circulation of agricultural land and the transition from the ideology of leasing individual land shares (pai) to the transfer of the arrays of land owned by private ownership associations of these landowners [3].

In this respect, land consolidation should be seen as an effective measure for the enhancement of the competitiveness of agricultural enterprises and for the acceleration of rural development. Due to land consolidation, an entrepreneur or a farmer is able to introduce modern methods of agricultural production on larger areas and on more convenient forms of land.

As the agricultural land plays a key role in ensuring the food security of the country, the lack of a proper environmental and economic justification for their management is a significant obstacle to the sustainable development of rural areas. Moreover, the long-time negotiations, related to the necessity of reduction of the level of plowing of the territories and especially agricultural lands of Ukraine to

optimal parameters, have been held – on the one hand. On the other, privatization of about 5 million hectares of degraded and low-productive land was actually carried out. The optimization of the structure of agricultural land requires the development and the implementation of a mechanism for a transformation of these lands; this mechanism may contain provisions on the state purchase of these lands (for example, for a transfer to the state forest fund), as well as provisions on the compensation of the lost income to the landowners and land users, due to the transformation of arable land to the conservation land and to any other less profitable types of land.

The Law of Ukraine “On the Main Principles (Strategy) of the National Environmental Policy of Ukraine for the Period until the Year 2020” No. 2818-VI of December 21st, 2010 [10] is directed to solving this problem; this law provides for the preservation and increase of soil cover fertility, for the optimization of the ratio of areas of natural and anthropogenic landscapes, arable land and ecologically stabilizing agricultural land; for the increase in the share of agricultural land with the use of environmentally oriented and organic technologies of agricultural production. For this purpose, it is planned to reduce the area of arable land by 5-10% by removing the lands on the slopes with a slope of more than 3 degrees and lands of water protection zones from the arable land fund, as well as to conserve the degraded and unproductive lands with their subsequent afforestation or leaching, depending on the soil and climatic zone. However, these norms are generally declarative. Unfortunately, the detailed algorithm for optimizing the structure of the land fund in the agrarian sphere is not legally enshrined. In the long term, it is necessary to develop flexible, scientifically substantiated systems of rational land use for each natural and agricultural zone, for agro-formings of various organizational and economic forms, which would meet the interests of all categories of land users and ensure a high productivity of agricultural lands, conservation and reproduction of the soil cover.

A significant problem is the non-compliance with the environmental legislation within all categories of land, and especially within agricultural land. In

particular, now there is a widespread view that the protection of land by the state concerns state-owned land only, and the preservation of the private property lands is the matter of their owners [13]. The requirement under Art. 1 of the Law of Ukraine “On Environmental Protection”, which states the need to “ensure environmental safety, prevent and eliminate the negative impact of economic and other activities to the environment, and to conserve the natural resources”, is not considered as well [12]. In particular, large holding companies often consider agricultural production as a project with short-term goals – by maximizing profits in the current years without taking into account strategic plans for the future. As a result, the insufficiently legally regulated activity of agroholdings intensifies the degradation processes and causes a decrease in soil fertility through the introduction of monocultural production.

In order to prevent this in the future and to ensure the scientifically grounded crop rotations, it is necessary to amend Art. 30 of the Law of Ukraine “On Land Protection” on the maximum permissible terms of return of crops to the previous place of cultivation. In addition, traditional approaches to the land protection, which are based on centralized planning and budgetary financing of land conservation measures and continuous land management, are ineffective in the current context. It is necessary to create conditions under which part of the rent received by agribusiness will be allocated to the financing of the soil protection measures. These all should be accompanied by the state control over the ecological safety of land use through the implementation of land management, economic and environmental norms and regulations, setting the optimal sizes of land use areas.

Conclusions. With the adoption of the market-oriented Land Code of Ukraine and a number of basic regulatory legal acts, the legal and organizational foundations of land management of agricultural enterprises have been created in general. However, in the process of land reform, a number of problems, related to the lack of regulation of the institutional environment of land management and land use of modern agro-formations, were identified

The systematization of these problems revealed their multilevel nature:

at the national level – the absence of a legally established Strategy for the formation of a rational system of land tenure and land use, which impedes the development and approval of regional and local targeted programs and documentation on land management for the land use and protection;

at the regional level – the process of establishing (changing) the boundaries of the administrative and territorial entities is incomplete, which makes it impossible to clearly define the powers, responsible for the disposal of land, causes errors in accounting and statistics, and is the basis for conflicts;

at the local level – fragmentation of agricultural land, loss of boundaries and elements of contour-reclamation organization of the territory, which reduces the efficiency of agricultural land use and intensifies the development of degradation processes;

lack of a proper ecological and economic justification for the crop rotation and for the agricultural land management, which requires the development of appropriate land management projects and is a significant obstacle to the sustainable development of rural areas.

In order to improve the legal support of land management of agricultural enterprises, it is necessary to develop and to approve the National Program of Land Use and Protection, as well as to amend the following: the Land Code of Ukraine on the return of functions of the ordering of the agricultural land (state and communal property) to territorial communities after zoning of land within their territories; the Law of Ukraine “On Land Management” on the formation of territorial environmental and technological restrictions (burdens) in land use and the law “On Land Protection” on the optimal structure of crop rotation.

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ПРОБЛЕМИ ЗДІЙСНЕННЯ ЗЕМЛЕУСТРОЮ СІЛЬСЬКОГОСПОДАРСЬКИХ ПІДПРИЄМСТВВ ПРОЦЕСІ ЗЕМЕЛЬНОЇ РЕФОРМИ

Анотація.Проведено аналіз здійснення землеустрою аграрних підприємств в процесі земельної реформи. Виявлено ряд проблем, пов'язаних з недосконалістю інституційного середовища землевпорядкування й

землекористування сучасних агроформувань, а саме: незавершеність економічних та правових відносин власності між власниками земельних часток та агроструктурами; зволікання з розробкою та прийняттям нормативно-правових актів, обумовлених вимогами подальшого реформування земельних відносин; катастрофічне скорочення обсягів робіт із землеустрою, спрямованих на забезпечення раціонального землекористування.

Встановлено, що найважливішою серед цих проблем є відсутність науково обгрунтованої та законодавчо закріпленої Стратегії формування раціональної системи землеволодінь і землекористувань, спрямованої на створення сприятливого середовища для сталого розвитку сільських територій; ефективного функціонування сільськогосподарських підприємств; зростання ролі землеустрою в забезпеченні екологічно безпечного використання земельних ресурсів в аграрному виробництві.

Розв'язання перелічених проблем передбачає вдосконалення нормативно-правової бази регулювання земельних відносин, зокрема, щодо законодавчого визначення адміністративного статусу об'єднаних територіальних громад; розмежування земель державної та комунальної власності; консолідації та недопущення подальшого подрібнення сільськогосподарських земель, що використовуються в товарному сільськогосподарському виробництві. Обгрунтовано необхідність розробки та затвердження Загальнодержавної програми використання та охорони земель, внесення відповідних змін до Земельного кодексу України та законів України «Про землеустрій» і «Про охорону земель».

Ключові слова: сільськогосподарські підприємства, землеустрій, раціональне землекористування, ефективність, власність на землю.

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ПРОБЛЕМЫ ОСУЩЕСТВЛЕНИЯ ЗЕМЛЕУСТРОЙСТВА СЕЛЬСКОХОЗЯЙСТВЕННЫХ ПРЕДПРИЯТИЙ В ПРОЦЕССЕ ЗЕМЕЛЬНОЙ РЕФОРМЫ

Аннотация.

Проведен анализ осуществления землеустройства аграрных предприятий в процессе земельной реформы. Выявлен ряд проблем, связанных с несовершенством институциональной среды землеустройства и землепользования современных агроформирований, а именно: незавершенность экономических и правовых отношений собственности между владельцами земельных долей и агроструктур; промедления с разработкой и принятием нормативно-правовых актов, обусловленных требованиями дальнейшего формирования земельных отношений; катастрофическое сокращение объемов работ по землеустройству, направленных на обеспечение рационального землепользования.

Установлено, что важнейшим среди этих проблем является отсутствие научно обоснованной и законодательно закреплённой Стратегии формирования рациональной системы землеустройства и землепользования, направленной на создание благоприятной среды для устойчивого развития сельских территорий; эффективного функционирования сельскохозяйственных предприятий; возрастание роли землеустройства в обеспечении экологически безопасного использования земельных ресурсов в аграрном производстве.

Решение перечисленных проблем предполагает совершенствование нормативно-правовой базы регулирования земельных отношений, в частности, законодательного определения административного статуса объединённых территориальных общин; разграничения земель государственной и

коммунальной собственности; консолидации и недопущения дальнейшего измельчения сельскохозяйственных земель, используемых в товарном сельскохозяйственном производстве. Обоснована необходимость разработки и утверждения Общегосударственной программы использования и охраны земель, внесения соответствующих изменений в Земельный кодекс Украины и законов Украины «О землеустройстве» и «Об охране земель».

Ключевые слова: сельскохозяйственные предприятия, землеустройство, рациональное землепользование, эффективность, собственность на землю.