

## **ANALYSIS OF THE MODERN LEGAL STATUS LAND USE**

**Kharytonenko R., PhD in Economics**

*E-mail: kharytonenkor@gmail.com*

*Institute of Land Management of the*

*National Academy of Agrarian Sciences of Ukraine*

**Kolisnyk G., PhD in Economics**

*E-mail: kolisnyk\_g@nubip.edu.ua*

*National University of Life and Environmental Sciences of Ukraine*

*The analysis of the state of land use on the example of institutions and enterprises of the National Academy of Agrarian Sciences of Ukraine in the context of studying the compliance of the State Land Cadastre (SLC), the State Register of Real Rights (SRRR) and title documents on land use rights. The necessity of conducting analysis and making managerial decisions as a supplement to the land inventory or a separate management to solve problems that are not solved by developing land management documentation (technical inventory documentation) is substantiated. Problems in the legal status, which were identified with the help of data from the SLC, SRRR, as well as the source information of the title documents, are highlighted. It is proposed to divide them into typical, which are inherent in the majority of land uses of NAAS and exceptional, which have not become widespread.*

*The classification of the revealed problems during the analysis of a modern condition of use of the earths of establishments and the enterprises of NAAS is presented and generalized. Ways to solve the identified problems on the example of land institutions and enterprises of NAAS, which are the need for land inventory, as the main tools for land management, as well as consistency of information SLC, SRRR, return of illegally allotted land to third parties.*

**Key words:** *land use NAAS, State Land Cadastre, State Register of Real Property Rights, title documents.*

**Formulation of the problem.** The proper implementation of state management functions for planning, monitoring and control of land use and protection depends on the availability of complete, objective and sufficient information about them, an important source of which is the land inventory. It is one of the most important parts of the land management system, which provides an information basis for management decisions in the field of land relations regulation, effective use and protection of land and more.

A significant part of the lands of institutions and enterprises of the National Academy of Agrarian Sciences of Ukraine (hereinafter NAAS) have a final uncertain legal status, require analysis of the state of use and further entry of information in the State Land Cadastre, State Register of Real Property Rights. Currently, NAAS provides land inventory work in individual farms of its scientific network [1].

Research work in this area in Ukraine is being developed for the first time in the absence of a proper methodological framework, which negatively affects the accounting of land and valuation of land assets. Because today there is no necessary methodological basis for land inventory, which will take into account different types of land use, which differ significantly in their purpose, and also require consideration of functional features, which necessitates an analysis of the current legal status of land use [2].

**Analysis of recent research and publications.** Research of the current state of land use of institutions and enterprises of NAAS is a new direction of research work proposed by researchers of the Institute of Land Use of NAAS of Ukraine. Also, the analysis of the current state of land use is closely intertwined with the tasks of land inventory.

In particular, Dorosh JM, Shkuratov OI, Avramchuk BO, Kharitonenko RA considered the scientific and methodological foundations of the analysis of the state of land use of institutions and enterprises of NAAS. They focused on land resources and real estate of NAAS institutions and enterprises, acting in two areas of available information, namely the data of the State Land Cadastre and the State Register of

Real Property Rights. The main approaches, requirements to the structural elements of the analysis in scientific and methodological areas are proposed [2].

Further research on land should be aimed at obtaining a practical result from the analysis of modern land use and identify errors in the legal status on the example of land institutions and enterprises of NAAS.

**The aim of the study.** Research of problems of formation of the legal status of lands of establishments and the enterprises of NAAS according to the State land cadastre, the State register of the real rights to real estate and the right-establishing documents.

**Results of research and discussion.** The analysis of the current legal status of land use of NAAS institutions and enterprises has revealed a number of problems that can be divided into typical and exceptional. Also, the problems of determining the legal status can be divided by source of origin, namely: information of the State Land Cadastre [3], the State Register of Real Property Rights [4], as well as the source information of legal documents of institutions and enterprises of NAAS.

Typical problems of establishing the legal status, which are systematically encountered within the institutions and enterprises of NAAS include:

- error in geometry, ie inaccuracies that can be seen on the Public cadastral map of Ukraine, with the imposition of one plot of land on another;
- unregistered land plots in the State Land Cadastre in accordance with the existing state act on the right of permanent land use;
- land plots are registered in the State Land Cadastre, but the real right to these land plots is not registered in the State Register of Real Property Rights;
- land plots are registered in the State Land Cadastre for another land user, but there is no information on withdrawal of land plots from land use;
- no information is defined on the lands under the research fields of the research institution.

The exceptional problems, which are much smaller in number than the typical ones, are typical only for specific institutions and enterprises of NAAS:

- transfer of the entire array of land plots in the archival layer, which were registered in the State Land Cadastre for a particular institution;
- land plots are registered in the State Land Cadastre, but there is no information about the subject of land ownership;
- discrepancy of cadastral number or area in the data on one specific land plot in the State Land Cadastre and the State Register of Real Property Rights;
- the land plot is registered in the State Register of Real Rights to Immovable Property, but it is absent in the State Land Cadastre.

Identified errors regarding the legal status of land use can be divided according to their origin, namely according to the State Land Cadastre (DZK), the State Register of Real Property Rights (DRRP) and source materials, which are legal documents, as well as complex errors from two sources. data.

As a result of the analysis, the identified errors according to the State Land Cadastre include:

- erroneous data on the land plot in the SCC (for example, location, address of the land plot, etc.);
- third-party land user;
- error in the geometry of the land;
- the land plot was transferred to the archival layer;
- inconsistency of data of the State Land Cadastre and the State Register of Real Rights;
- lack of information on particularly valuable lands within research institutions;
- no land plot.

Errors identified on the basis of the State Register of Real Property Rights (DRRP) can be systematized as follows:

- erroneous data on the land plot in the DRRP (for example, the address of the land plot and others);
- the grounds for registration of the land plot in the DRRP not according to the legal documents, including the state act, but according to the decision of the local self-government bodies;

- the land plot is registered in DRRP, but is absent in DZK;
- the land plot is registered in DZK, but is absent in DRRP;
- discrepancy of cadastral number or area of the identified land plot.

The identified errors according to the source materials, including title documents include:

- the land plot is absent in DZK;
- inconsistency of the area, configuration, purpose of land plots in the State Land Cadastre of information specified in the title documents;
- there are no partial or full title documents for land plots (for example, not all land plots belonging to the institution or enterprise of NAAS have state acts, or they are damaged).

Summarizing the errors that occur in determining the legal status of land according to the information of the SCC, DRRP and title documents, we can identify a number of complex errors, namely:

- the land plot is absent in the SCC (a complex problem based on the title documents and data of the SCC);
- there are no partial or full title documents for land plots (for example, not all land plots belonging to the institution or enterprise of NAAS have state acts, or they are damaged, the basis for registration of land in the DRRP is not a state act) also, for example, in the item "information on the land plot" the form of ownership is indicated communal instead of state;
- inconsistency of the cadastral number or area of the identified land plot (based on the data of DRRP and DZK);
- the land plot is registered in DZK, but is absent in DRRP (correspondence of DZK data with DRRP);
- the land plot is registered in DRRP, but is absent in DZK.

Thus, the identified problems were specified with the help of the State Land Cadastre or the State Register of Real Property Rights, as well as the initial information of the title documents, which made it possible to make the following structural and logical scheme (Fig. 1).

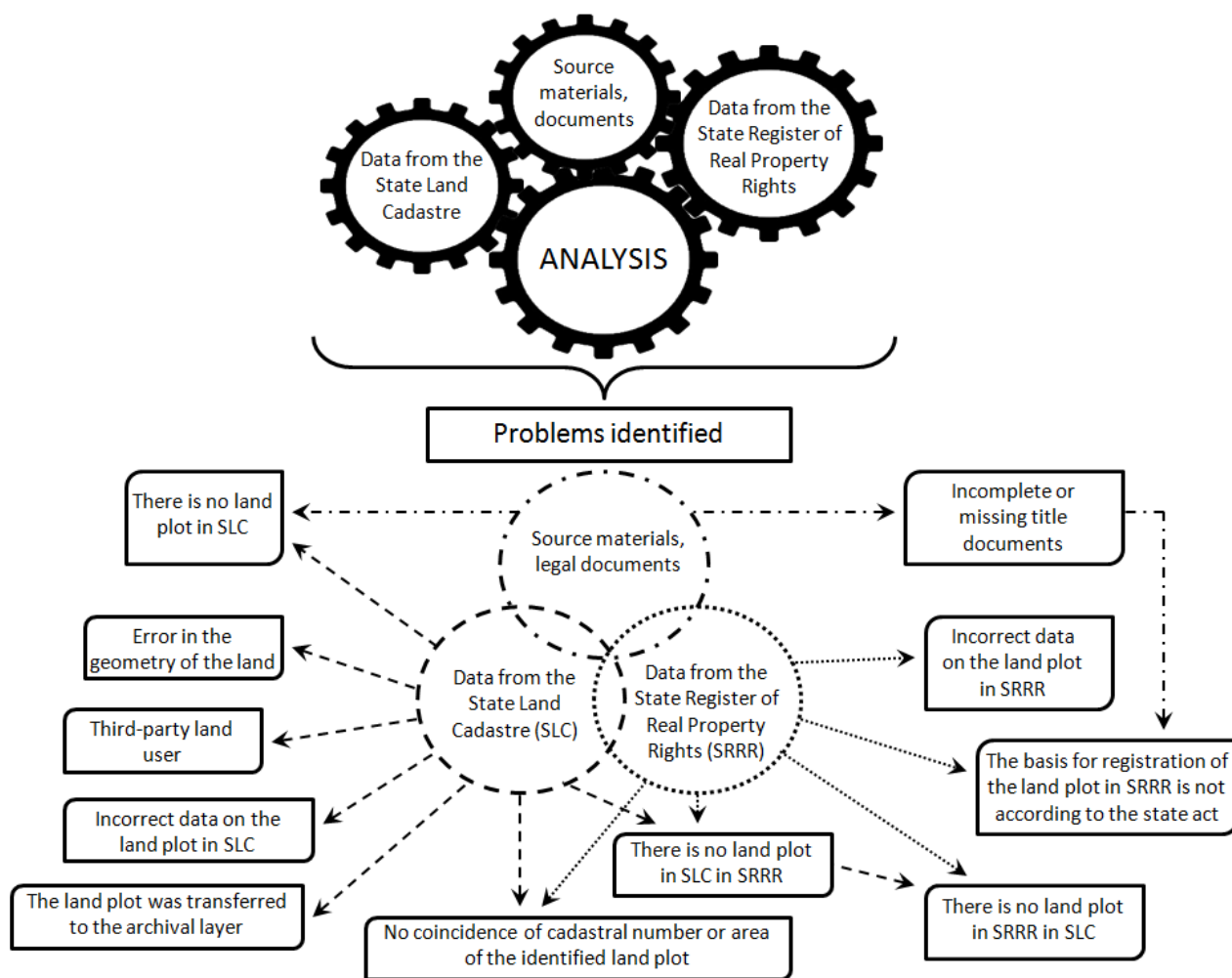


Fig. 1. Structural and logical scheme of the identified problems during the analysis of the current legal status of land use of institutions and enterprises of the National Academy of Agrarian Sciences of Ukraine

Given the identified problems in the legal status, ways to solve them were suggested. In order to correct existing inaccuracies and errors within land use and ensure the rational use of land, it is recommended:

- land plots, which according to the state act on the right of permanent land use are assigned by the institution, but are not in the State Land Cadastre, it is necessary to conduct an inventory of lands, which will include these land plots in land use [5];
- to register real rights to land plots within the relevant administrative-territorial unit for land plots with cadastral numbers and area for land use in the State Register of Real Property Rights [6];

- abolition of the right of ownership in court on land plots with cadastral numbers and areas that are within the boundaries of land use under the state act and have not been abolished.

**Conclusions.** Analyzing the current state of the legal status of land use on the example of institutions and enterprises of NAAS, it was possible to identify problems within specific land uses. This allowed to distinguish and specify problematic issues, which in the legal field were not solved only by conducting an inventory of land, such problems include registration of property rights to land in the State Register of Real Property Rights, illegal allocation of land to enterprises and institutions of NAAS.

Studies of the legal status on the example of land use NAAS will help to improve the process of land inventory of scientific institutions, organizations or agricultural enterprises in the implementation of land management, taking into account the peculiarities of their land use. Which in general will help increase the efficiency of the land management system and improve the real estate cadastre.

### References

1. Dorosh Y. M., Shkuratov O. I., Avramchuk B. O., Kharytonenko R. A. (2020). Naukovo-metodychni osnovy provedennia analizu stanu vykorystannia zemel ustanov ta pidpryiemstv NAAN. Zemleustrii, kadastr i monitorynh zemel, 2-3. doi: <http://dx.doi.org/10.31548/zemleustriy2020.02.05>
2. Dorosh Y. M., Dorosh O. S., Kharytonenko R. A., Melnyk D. M. (2019) Propozytsii shchodo struktury, zmistu ta skladu haluzevoho standartu inventaryzatsii zemel derzhavnykh ustanov ta pidpryiemstv NAAN. Zemleustrii, kadastr ta monitorynh zemel, 3, 15–22. DOI: <http://dx.doi.org/10.31548/zemleustriy2019.03.02>
3. Elektronni servisy Derzhavnoho zemelnoho kadastru (DZK). Vytiah pro zemelnu dilianku. Available at : <http://e.land.gov.ua/>
4. Derzhavnyi reiestr rechovykh prav na nerukhome maino Available at: <http://kap.minjust.gov.ua/>.

5. Postanova Kabinetu ministriv Ukrainy № 1051-2012-p, redaktsiia vid 20.10.2020 r. «Pro zatverdzhennia Poriadku vedennia Derzhavnoho zemelnogo kadastru». Available at: <http://zakon.rada.gov.ua/laws/show/1051-2012-%D0%BF#Text>

6. Postanova Kabinetu ministriv Ukrainy № 1127-2015-p, redaktsiia vid 29.05.2020 r. «Pro derzhavnu reiestratsiiu rechovykh prav na nerukhome maino ta yikh obtiazhen». Available at: <http://zakon.rada.gov.ua/laws/show/1127-2015-%D0%BF#Text>

***Харитоненко Р.А., Колісник Г.М.***

## ***АНАЛІЗ СУЧАСНОГО ПРАВОВОГО СТАТУСУ ВИКОРИСТАННЯ ЗЕМЕЛЬ***

*Проведено аналіз стану використання земель на прикладі установ та підприємств Національної академії аграрних наук України у контексті дослідження відповідності матеріалів Державного земельного кадастру (ДЗК), Державного реєстру речових прав (ДРРП) та правовстановлюючих документів щодо права користування землями. Обґрунтовано необхідність проведення аналізу та прийняття управлінських рішень, як доповнення до інвентаризації земель або окремий менеджмент вирішення проблем, які не вирішуються розробленням землепорядної документації (технічна документація із інвентаризації). Висвітлено проблеми у правовому стані, які були виявлені за допомогою даних ДЗК, ДРРП, а також за вихідною інформацією правовстановлюючих документів. Запропоновано їх розподіл на типові, які притаманні переважній частині землекористувачів НААН та виняткові, які не набули широкого поширення. Представлена та узагальнена класифікація виявлених проблем під час аналізу сучасного стану використання земель установ та підприємств НААН. Запропоновано шляхи вирішення виявлених проблем на прикладі земель установ та підприємств НААН, які полягають у необхідності проведення інвентаризації земель, як основного інструменту управління земельними ресурсами, а також узгодженості*



відомостей ДЗК, ДРРП, повернення у судовому порядку незаконно відведених земель стороннім юридичним та фізичним особам.

**Ключові слова:** землекористування НААН, Державний земельний кадастр, Державний реєстр речових прав на нерухоме майно, правовстановлюючі документи

**Харитоненко Р.А, Колисник Г.Н.**

## **АНАЛИЗ СОВРЕМЕННОГО ПРАВОВОГО СТАТУСА ИСПОЛЬЗОВАНИЯ ЗЕМЕЛЬ**

Проведен анализ использования земель на примере учреждений и предприятий Национальной академии аграрных наук Украины в контексте исследования соответствия материалов Государственного земельного кадастра (ГЗК), Государственного реестра прав (ДРРП) и правоустанавливающих документов о праве пользования землями.

Обоснована необходимость проведения анализа и принятия управленческих решений, как дополнение к инвентаризации земель или отдельный менеджмент решения проблем, которые не решаются разработкой землеустроительной документации (техническая документация по инвентаризации).

Освещены проблемы в правовом состоянии, которые были обнаружены с помощью данных ГЗК, ДРРП, а также за исходной информацией правоустанавливающих документов. Предложено их распределение на типичные, которые присущи большей части землепользования НААН и исключительные, не получили широкого распространения.

Представлена и обобщенная классификация выявленных проблем при анализе современного состояния использования земель учреждений и предприятий НААН. Предложены пути решения выявленных проблем на примере земель учреждений и предприятий НААН, которые заключаются в необходимости проведения инвентаризации земель, как основного инструмента управления земельными ресурсами, а также согласованности

*сведений ГЗК, ДРРП, возвращение в судебном порядке незаконно отведенных земель сторонним юридическим и физическим лицам.*

**Ключевые слова:** *землепользования НААН, Государственный земельный кадастр Государственный реестр вещных прав на недвижимое имущество, правоустанавливающие документы.*