

Legal Regulation of Land Protection as one of the Directions for Preventing Corruption*

Oleksandr Mozghovyi,¹ Vitalii Kolomoitsev,² Maksym Korniienko,³
Pavlo Liutikov,⁴ Olesia Marchenko⁵

¹ Kharkiv National University of Internal Affairs, Ukraine

² National Aviation University, Ukraine

³ Odessa State University of Internal Affairs, Ukraine

⁴ University of Customs and Finance, Ukraine

⁵ Oles Honchar Dnipro National University, Ukraine



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Abstract.

The study aims to analyse global trends in land use and conservation in the activities of state administrations as one of the directions for preventing corruption. Main content the study analysed global trends in state management in land use and conservation as one of the directions for preventing corruption. The results show that the use of land resource potentials in the world's countries is carried out by considering the environmental safety requirements stipulated in the land region's strategic documents. Considering Ukraine's European integration intentions, a tool for rural area development based on the ecosystem approach is proposed. Methodology The materials and methods of the study are based on the analysis of documentary sources. The basis is a dialectical method of recognising the phenomena of social reality, and based on this dialectical method, mainly formal and comparative legal approaches are used. Conclusion The experience of the EU and countries around the world shows that the priority of national administrations (land administrations) in land use and conservation is the ecosystem approach to the conservation and regeneration of land and other natural resources, which can be achieved through the maintenance of common agricultural policies, the creation of funds to support farmers, the provision of technical assistance, national and targeted programs for development and long-term development planning. The general trend in European Union countries is to develop land sector development strategy documents that look 5-10 years ahead.

Keywords: Benchmarking; Environment Safety; Corruption; International Practices; Land Protection; Land Use; Natural Resources; Pattern; Public Administration of Land Use and Protection; Successful Experience

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¹ **Oleksandr Mozghovyi** - Kharkiv National University of Internal Affairs, Ukraine, ORCID: <https://orcid.org/0000-0003-2836-7595> Email: alexandrmozgovoy18@gmail.com

² **Vitalii Kolomoitsev** - National Aviation University, Ukraine. ORCID: <https://orcid.org/0009-0005-2015-1425> Email 8392848@stud.nau.edu.ua

³ **Maksym Korniienko** - Odessa State University of Internal Affairs, Ukraine. ORCID: <https://orcid.org/0000-0002-6420-6169> E-mail: oduvs2015@ukr.net

⁴ **Pavlo Liutikov** - University of Customs and Finance, Dnipro, Ukraine. ORCID: <https://orcid.org/0000-0001-6173-0128> Email: lyutikovp@gmail.com

⁵ **Olesia Marchenko** - Oles Honchar Dnipro National University, Ukraine. ORCID: <https://orcid.org/0000-0001-5670-8401> Email: m.olesya.d@gmail.com

**Corresponding author: alexandrmozgovoy18@gmail.com

A. INTRODUCTION

Less and less unused land remains in global agriculture. Only five countries have such potential - Brazil, USA, Russia, Canada and Australia ([Novakovska, 2016](#)). This notwithstanding, agricultural land in economically developed countries is a subject of focus and protection; authorities protect it at all levels and serve as the principal capital of agricultural producers, a place of investment. It is happening due to the effective system of state administration of the use and protection of land (land administration), which ensured the flow of investments for the development of rural areas while ensuring the state land ownership rights, formed a socially fair system of payment for land, taking into account the quantitative and qualitative characteristics of land plots. It also made it possible to establish a system of land control, ensure adequate functional requirements for farms, the ability to dispose of land and products produced on it freely, receive loans from banks against the security of land owned, use the land, transfer it to lease, by inheritance on its initiative.

The use of land and resource potential in these countries is based on criteria that consider environmental safety requirements, compliance with guarantees of land rights, and ensuring the effectiveness of their use and protection. In world practice, environmentally friendly land use is proposed to be carried out in the following sequence: one-third of the territory should be conserved; the second-third should have limited, state-controlled economic use while preserving the natural landscape, and only the remaining third should be domesticated for intensive use while preserving the environment and human health. ([The United Nations Millennium Declaration, 2005](#))

Land conservation measures in the developed countries of the world are introduced thanks to the policy of rural development, which is based on the conduct of a joint agricultural policy, the creation of funds to support farmers, the provision of technical assistance, the development of national, targeted programs and long-term development plans. For the European Union countries, developing strategic documents for developing the land sector for 5-10 years is a general trend.

The research analyses global land-use trends and protection in state bodies' activities. Domestic scientists and practitioners, especially those who want to ensure the development of rural areas by adopting national decisions based on the experience of other countries, are actively studying this issue.

These scientists have significantly contributed to studying international practices in the legal regulation of land protection: Ilyina Maria, Demyanenko

Mykola, Vlasov Volodymyr, etc. At the same time, domestic scientists pay insufficient attention to the use of international practices in solving the problems of legal regulation of irrigated and drained lands. However, implementing a joint agricultural policy with the EU countries based on solving the socio-ecological and economic problems of rural areas requires additional research.

The Fund also provides technical assistance for the development, implementation, and monitoring of activities within the framework of national programs, mainly at the request of the governments of the Member States of the Union. The volume of this assistance varies. Countries that joined the EU in 2004 (Estonia, Latvia, Lithuania, Malta, Hungary) received 3.9% each, and France, Great Britain, the Netherlands, Czech Republic, and Ireland - from 0.1 to 0.8%. ([Ilyina, 2015](#)) For example, in the Netherlands, municipal plans are the basis for developing community land use and administration. Land management activities in the country are important to regulating the economy and environmental management. More than 570 projects have been developed on an area of 2.4 million hectares, i.e., covering more than 75% of the territory. ([Demyanenko, 2007](#))

The program for revitalising rural areas in Poland (before accession to the EU) provided compensatory surcharges for the afforestation of agricultural land and the maintenance of plantations. The financial assistance was one-time and was carried out in the following order: after a year - for afforestation; after 5 years - a prize for guardianship; after 20 years - a prize for afforestation. A differentiated approach was applied to the amount of payment, which depended on the configuration of the site and the type of forest plantations (coniferous trees - 1018-1207 euros per 1 ha, deciduous trees - 1184-1397 euros per 1 ha). This compensation was provided to agricultural producers on condition that they afforest at least 3 hectares of agricultural land. ([Vlasov, 2005](#))

B. METHODS

Materials and methods research based on the analysis of documentary sources. The basis is the dialectical method of cognition of the facts of social reality, on which the formal legal and comparative legal approaches are primarily based. With the help of the dialectical method, the modern conceptual base and questions of legal technologies as tools for increasing the use and protection of land are formulated. The formal-dogmatic method contributed to

the author's explanation of the current state, problems, problems and practical role of legal technologies for further development and improvement of land use and protection. The formal-legal method made it possible to propose directions and types of use of legal technologies as prospects for increasing the use and protection of land.

C. RESULT AND DISCUSSION

The Economic Commission for Europe is an international organisation that was the first to comprehensively consider the public administration of land use and protection (land administration) in Europe. A working group on land administration was created to coordinate agriculture. The European Agrarian Fund for Rural Development and funds from national budgets finance national programs for developing rural areas. In particular, at present and until 2020, the strategy of the Common Agricultural Policy of the European Union (hereinafter EU CAP) provides financing for the common agricultural market, direct subsidies to agricultural producers, and stimulation of rural development. The EU CAP, by its activities, fully confirms the ability to keep the economies of European countries at the same level of development.

In the United States, Canada, Japan, China and most developed countries of the European Union, the state's role in land administration has been increasing over the past decades. In most cases, all types of land management documentation are developed with the participation and control of state and local authorities, considering public interests. Based on the developed and approved documentation, land use planning, zoning of the territory, and state regulation of land relations through economic, legal and organisational measures at the state, regional, and local levels and the level of land tenure or land use are carried out.

In recent years, foreign scientists have been proving the need for state administration of the use and protection of land (land administration) as the basis for implementing the state's land policy. This means that implementing the basic principles of land policy to enhance the role of land capital in the land use economy without combining the functions of land use management and land management is impossible.

Countries that in recent years have strengthened the state administration of land use and protection, using the land management mechanism, have practically no problems in the allotment of land plots for state and public needs, maintain an optimal ratio between agricultural, forest, nature

conservation, settlement lands, prevent the withdrawal of agricultural land for non-agricultural needs, carry out a system of environmental protection measures. Such actions positively affect these countries' economic growth (by attracting investments and loans and increasing land productivity).

Land management activities in developed foreign countries are carried out based on approved project documentation for land management in various areas. In Sweden, Denmark, and Japan, the design of the farm area must be improved. Landscaping of the territory is carried out in Germany, the Czech Republic, Slovakia, and Austria to improve the state of the ecology. Australia, the USA, Canada, China, and India use an integrated approach to implementing environmental protection measures. With the aim of the economic recovery of farms, the EU countries are introducing measures to organise the rational use and protection of land, such as a feasibility study for the production organisation, considering the quality condition of land plots. Land management activities in the EU countries, the USA, and Canada aim to support the land market. Land consolidation works are carried out in Germany, the Netherlands, the Scandinavian countries, and Poland to improve the conditions for the operation of agricultural enterprises. The enlargement of farms is carried out in the EU countries, the USA, Canada and other countries to provide a differentiated mechanism of support and functioning. ([Demyanenko, 2007](#))

In the European Union, rural development policy is an important area given that 56% of the population in 27 countries live in rural areas, which make up 91% of the total area of the Union. The development of rural areas received significant support after the publication of the EU Communiqué, "The Future of Rural Society", as a comprehensive mechanism for ensuring rural development. Thanks to this program, at the local level, small, highly specialised projects were implemented to solve local problems. ([Khrystov, 2019](#))

First, the restoration of rural areas and the creation of work ([Ilyina, 2015](#)). In Salzburg (Austria) in 2003, a conference on rural development was held, at which the main development directions for 2007-2013 were determined. This measure allowed the governments of the EU member states to allocate their resources to develop rural areas independently and simplify the financing procedure through a single fund. ([Leheza, 2020](#)) Of the total amount of funds of the EU member states, 10% were allocated to stimulate innovation, research, and entrepreneurship. To improve landscapes, preserve territorial balance, develop organic agricultural production and reduce benefits for payment for

the use of land resources, funds were envisaged to reach 25%. For the implementation at the local level of small, highly specialised projects to solve specific local problems provided by the LEADER program, 5% (for the new EU member states, this share reached 2.5%). ([Ilyina, 2015](#))

In the European Union, from 2012 to 2020, the European Agricultural Fund for Rural Development (EAFRD) allocated 96 billion euros for developing rural areas, of which 32% was used for convergence. The permanent EU member states (15) received 61% of the total funding, the rest from 12 to 39% (most funds were provided to Poland - 14%, Italy and Germany - 9% each. (Rural Development in the European Union. [Statistical and Economic Information Report, 2013](#))

In 2012-2020, the EAFRD made payments to EU countries for the development of rural areas for such events: a) agroecological activities - 23.1 billion euros (24%); b) modernisation of farms 11.6 billion euros (12.1%) and support for newly created - 2.9 billion euros (3,0%); c) increase in added value of products - 5.6 billion euros (5,8%); d) infrastructure development of farms - 4.8 billion euros (5.0%); e) local (local) strategies for rural development - 4.1 billion euros (4.3%); f) for the basic needs of rural residents - 3.7 billion euros (3.8%); g) for the rehabilitation and development of the village - 3.4 billion euros (3.5%); h) for primary afforestation of agricultural land - 1.7 billion euros (1,8%). ([Rural Development in the European Union. Statistical and Economic Information Report, 2013](#))

The state imposes a differentiated land tax in the United States to improve land use. The state has the right to restrict owners' freedom to use land and property resources at their discretion (for example, in case of violating sanitary standards, causing environmental and economic damage, etc.). In addition, the state, in the case of using land for other than its intended purpose, for non-use of them, in general, returns to itself the right of ownership of the land. In large cities, land use is regulated by zoning. ([Leheza et al., 2023](#))

The Government of Latvia has adopted the Land Policy Guidelines to bring legislation in line with EU best practices. A land management law is currently being drafted, the concept of which was approved in 2010, which provides: regulate the principles of land use and the responsibility of landowners and land users; determine the powers of state and local authorities in the field of land relations; prevent further land degradation and contribute to the preservation of their quality condition; ensure land monitoring; create a land fund and introduce land consolidation ([Leheza et al., 2024](#)). The land fund will be used as: a) a compensation fund in case of land acquisition for public

needs; b) a reserve fund for the development of public infrastructure (roads, communications), improving access to land plots and land consolidation ([Land Banks and Funds – Instruments for Rural Development, 2012](#)). In almost all countries of the European Union and the United States, without exception, the Constitution enshrines the fundamental principles of regulating land and property relations, introduces severe restrictions related to the targeted use of land of various categories, as well as rules for municipal and agricultural land use, demarcates the economic and legal procedures for the sale of land and their redemption from private individuals for state needs and the achievement of national security. ([Vegeera, 2011](#))

The state administration system of land use and protection is divided into three types - classical, transitional and complex multifunctional. Western European countries (France, Germany, Austria, Italy, Spain, etc.) used the classical system for assessing land for taxation. When assessing the quality of agricultural land, the yield of crops on arable land and the productivity of forage lands are considered. Here, the principle "from the general to the particular" is implemented in the land policy of the state, and the state-integrated approach to land management is supported.

The transitional period in the state administration system of land use and protection is associated exclusively with individual land plots and their spatial data. As a result, when making management decisions, it is impossible to fully consider the territorial, economic, environmental, and social requirements. This system originated in the USA, Australia, Canada, and some developing countries and is based on the "from particulars to generals" principle.

Complex multifunctional systems of state administration of land use and protection began at the end of the 20th century and the beginning of the 21st century in the European Union, North American states and the CIS countries. These systems contain multipurpose cadastre, e-management and modern geographic information and navigation technologies. The solution of land use development issues is considered in a dialectical unity according to the principle "from the general to the particular" or "from particulars to generals". At the same time, integrated multifunctional land administration systems (LAS) recognise land management as the primary mechanism for land administration and provide functional relationships between the LAS infrastructure, spatial data infrastructure, and spatial information about the activities of the state, municipal and private sectors. ([Zadyraka et al., 2023](#))

State administration of the environmental impact on the economic interests of landowners or land users in countries with market economies

includes providing tax incentives, preferential loans, subsidies, and donations to business entities. ([Leheza et al., 2024](#))

Tax concessions are provided for environmentally friendly activities (producing ecologically clean agricultural products, anti-erosion organisation of the land use territory, and maintaining the territory's biodiversity). Concessional loans are provided at interest rates for environmental investments. Subsidies are provided for implementing environmental programs of national and regional importance (conservation and expanded reproduction of land resources). Subsidies are also provided for farming in a minimal mode, growing products without pesticides. ([Kulinich et al., 2023](#))

Agrarian relations in developed countries are built on incentive levers, with the direct implementation of the rules for the use and protection of land ([Leheza et al., 2024](#)). If business entities violate the norms of land use, their rights in some part are terminated. In the United States, for example, they are deprived of the possibility of concluding government contracts, providing subsidies, borrowing funds, etc. Funding for measures to reduce land pollution, in most countries, in case of non-compliance with the requirements, non-fulfilment of the conditions put forward for obtaining a loan, is terminated. ([Novotorov, 2009](#))

The countries of the European Union receive subsidies for the control of land pollution, maintenance of stable landscapes, compliance with environmental protection measures, and uniform standards for the use of chemicals. To ensure the sustainability of agricultural landscapes in Denmark, Austria, and other EU countries, each landowner must withdraw 10-13% of the land from economic circulation ([Teremets, 2012](#)). In Spain, the Law on the Protection and Improvement of Agricultural Lands (1953) obliges owners to apply agricultural practices under the norms determined by the Ministry of Agriculture. In Germany, in particular in its western part, an annual soil survey has been carried out for many decades, including tests for the content of nitrates ([Volkov, 2010](#)). If the norm is exceeded, the business entity pays a hefty fine and may go bankrupt due to the ban on the sale of products. In the United States, 20% of taxable profits can be invested in priority areas (soil and water conservation measures, modernisation) without taxing capital invested. ([Shkuta et al., 2023](#))

Tax rates for environmental pollution in EU countries are 60 times higher than domestic ones. In countries with developed economies, when implementing environmental protection measures, attention is paid to justifying the feasibility of their realisation and stepwise implementation. The

share of prospecting, design work, and work regarding the scientific justification of these activities is 40-60% of the total cost of their implementation. While in Ukraine, this indicator ranges from 1-6%. ([Alimov, 2015](#))

The economic levers of environmental policy in Ukraine need to be improved because it is not sufficiently developed. The experience of foreign countries shows that we must strengthen both the instruments for land administration and the means supporting it to achieve success in sustainable land administration ([Leheza et al., 2023](#)). The instruments include: a) state system; b) planning of land use development; c) economic and legal methods of state regulation of land relations and the land market; d) ensuring guarantees of land ownership, land tenure and land use, and land taxation. Supportive means include: a) registration of rights to land plots, b) land cadastre, c) measures for the assessment, accounting, use of an inventory of land, etc. ([Leheza, 2018](#))

To improve the system of economic leverage, we offer: 1) to perfect mechanisms for returning funds to agricultural land tenure and land use that use innovative technologies for the conservation and protection of soil; 2) simplify the procedure for granting subsidies, grants, benefits for land users at the expense of local budgets (from payments for land and compensation for losses of agricultural and forestry production); 3) improve the mechanism for stimulating the rational land use.

D. CONCLUSIONS

The experience of the EU and the world countries gives reasons to assert that the priority task of state administration of the use and protection of lands (land administration) is an ecosystem approach to the conservation and reproduction of land and other natural resources, which is implemented by maintaining a joint agricultural policy, creating funds to support farmers, providing technical assistance, developing national, targeted programs and long-term development plans. For the European Union countries, developing strategic documents for developing the land sector for 5-10 years is a general trend.

It has been proven that private owners should become the leading organisations implementing the state's environmental policy to protect land and carry out effective environmental management, as they are entitled to property or use rights to land plots. Because of this, it is necessary to develop a

program to stimulate the private sector of agricultural producers at the state level.

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